Negotiating a Lease for Your Co-op

This workshop should not be used as a substitute for legal advice from an attorney. There will be time for questions, and we may be able to put you in touch with an attorney in your area for sensitive questions.

Advantages of leasing – especially for new co-ops.

1) Flexibility. You can move to another property if your needs for a location, building size, type of building, or building condition change.

2) Credit. A lease in the co-op's name gives you the chance to build a business history. Buying a property requires a lot of money for a down payment, or else comes with very high mortgage costs.

3) Maintenance. A new co-op may need to learn how to plan for maintenance, how to set money aside, and how to fix problems on the fly. Leasing a property puts the responsibility for this in the hands of the property owner.

Potential Risks of Leasing – and how to manage them

1) Lack of control over future rents. A mortgage comes with a fixed monthly payment for years to come. Your landlord could raise the rent next year. If you can, try to get a longer-term lease, and build in a predictable rate for rent increases.

2) Lack of control over residents. Your co-op needs to have control over your membership process. Avoid leasing a portion of a house – like leasing X number of rooms in a rooming house – and make sure that you lease the entire property. Ideally, you want a Master Lease, which gives the co-op the right to sub-lease rooms to people without the landlord's needing to sign off on them.

3) Lack of credit history. Some landlords ask that the members of a co-op each sign the lease. If possible, the lease should be in the co-op's name, not any member's. Many landlords can be convinced – it's easier for them to collect one check per month than 12. If this is not an option, have the co-op added as a party to the lease.

Points of Negotiation

Membership Autonomy – Your landlord needs to not have a say in who moves in, or who gets kicked out. If the landlord is unfriendly to this, the co-op should be prepared to talk about your membership policies, your experiences in managing leases, or point to other coops. If they are unwilling to give on this point, you may need to find someone else to work with.

Maintenance Autonomy – You may not want a landlord coming into your home to fix minor things. You may want to make minor changes and not have to worry about getting in trouble. Some landlords will be open to giving you a minor rent break in exchange for your dealing with the small stuff.

Stability – You want to know that you can be there next year. And if not, you want to have a lot of warning. Ask for a long notice before they can non-renew your lease – 6 months of more if possible, but at hopefully at least 3. You may also want to ask about a multi-year lease. There are ways to build in predictable rent adjustments to keep up with inflation.

Flexibility – You should be there as long as you want.... but no longer. Be aware of the deadline you set for non-renewal, and start talking ahead of time about whether the lease is working for your co-op.

Risk – You want to make sure that the landlord is responsible for the major maintenance. This would include building code compliance and big structural issues – plumbing, wiring, foundation, roof, etc. As a rental co-op, it would be very difficult to save enough money to pay for these yourself.

Option to Purchase – If this is a great fit for your co-op, you may want to stay. There are many ways to build in a plan to purchase.

- “Right of First Refusal” - This means that if the owner decides to sell the property, they have to tell you first, and they have to give you X amount of time to meet their offer before they can list the property publicly.
- “Lease-to-own” - This can mean many things. It may mean you pay an amount above your regular lease payment, and at the end of a few years you have enough to make a down payment. It may also mean some version of Owner-financing.
- Owner-financing – This means you do not get a mortgage from a bank – your mortgage is through the property owner. The plus side is that you have an easier time qualifying for the loan, and might be able to make a very low down-payment. The minus is that the terms are usually worse... higher interest is the most common example.