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# Opportunity to Purchase in New Mexico

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ROC usa®
Resident Owned Communities
BETTER TOGETHER

# Proposed Legislation

*A new section of the Mobile Home Park Act creating a Resident Opportunity to Purchase when their community is for sale*

## 1 Owner gives notice

- Owner must notify every resident (in English and Spanish; certified mail and posted on door) and New Mexico Mortgage Finance Authority of purchase price and material terms, and explain resident rights
- If the park is sold as part of a package with other parks or properties, the notice must show both the total price and the price allocated to the residents' own park.

## 2 Residents' opportunity to buy

Residents get the chance to buy on the same price and substantially equivalent terms as the third-party offer. They must meet three requirements:

**1**
**Resident approval**
Owners of at least 51% of the occupied mobile homes must approve the purchase.

**2**
**Matching offer**
Residents must submit a proposed purchase and sale agreement that meets the third-party offer.

**3**
**Deadlines**
Residents must meet the financing and closing deadlines.

# Timeline

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| **Notice posted on residents' homes** | **Residents deliver 51% approval documentation and a matching proposed agreement** | **Residents obtain a binding financing commitment** | **Closing** |
| | *Within **90 days** of posting* | ***Within 120 days** after the agreement is signed* | ***Within a "commercially reasonable" time specified in the agreement*** |

**If the resident offer contains the same price and substantially equivalent terms, the owner must accept the offer.**

# Owner Obligations and Resident Rights

1

## Owner obligations

If the owner thinks the residents' offer doesn't match, the owner must negotiate in good faith. Good faith includes sharing the same information given to the third-party buyer. If the owner rejects the offer, the owner must give written reasons within three days. Trying to make residents waive their rights is presumptive evidence of bad faith.

2

## Assignment

Residents may assign their rights to a local, state, or tribal government, a state agency, a housing authority, or a nonprofit, as long as the park stays a mobile home park.

3

## New offers

Each new offer the owner intends to accept starts a fresh opportunity period.



# Your Park is for Sale!

## From Tenant to Owner. First resident meeting.

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# Who are we?

ROC USA® is a national nonprofit organization that helps homeowners in manufactured home communities form a corporation to collectively purchase and manage their community as a Resident Owned Community (ROC).

We provide coaching and hands-on help and support through the entire purchase process, and ongoing training and education for years to come.

ROC USA Capital, our affiliated lending organization, provides financing to support the purchase.



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# We are long-term partners in your success

## Acquisitions Project Manager
Guides the community through the purchase process from first meeting to closing. Supports the refinance of the acquisition loan at the end of its term.

## Underwriter
Evaluates the financial feasibility of the purchase and structures the loan to set the community up for long-term success.

## Business and Governance Advisor
Supports select activities during the purchase process, then provides ongoing training and subject matter expertise on how to legally and properly operate your business.

## Manager, Construction and Development
Provides technical input during the purchase process and supports the development and implementation of the community's capital improvement plan post purchase.

## Asset Manager
Supports the ROC's long-term financial health and loan compliance post purchase, including oversight of the capital improvement plan, reserve funds, insurance and property tax payments, annual budget review and approval, and other real estate transactions.

# A proven model of success

**365**
Number of ROCs

**22**
Number of states with ROCs

**24,700+**
Number of homes in ROCs

**9**
Affiliates across the country

# Why are we here?

We are here because your community is for sale, and before it's sold to someone else, you have an opportunity to buy it yourselves and take control of your community's future — keeping it affordable, stable, and locally governed.



# What is a ROC?

## Resident Owned Community

A Resident Owned Community, or ROC, is a **business that owns and operates a** manufactured home **land lease** community that governed by a **volunteer board of directors** who live in and own their home in the community. Each owner occupied household buys one Member share of the Corporation and is an equal owner of the **business entity that owns the land** — while continuing to own their individual home and paying monthly lot fees. The business entity hires a third party property management firm to handle the daily operations of the community and reports to the Board of Directors who have a Business & Governance Advisor helping the board to make legal and sound financial decisions.

- Each homeowner can purchase 1 membership.
- All adults in the household can be part of that one membership.
- Each household gets one vote in major decisions.
- Members elect a Board of Directors made up of homeowners—they meet once a month to make sure business is happening and review management reports.
- Members adopt cooperative bylaws and the community rules.
- Members hold an annual meeting to review the board proposed budget—and members vote on that budget. The budget determines rents (talk about that in a bit).
- Members decide which projects are completed using a capital plan and funds put aside for these purposes.

# How does a ROC work?

## 1

### You Form a Corporation

Homeowners vote to form a not-for-profit corporation. Each household becomes an equal member and owner.

## 2

### An Interim Board Gets to Work

Members elect an interim board and empower them to work with ROC USA's Acquisitions Project Manager to study the feasibility of purchasing the community — conducting due diligence, pursuing financing, and keeping members informed along the way.

## 3

### Members Vote on Key Decision Points

Members come together to vote at critical moments: usually at the end of due diligence, and again once the loan terms are finalized.

## 4

### The Community Closes on the Purchase

If members vote to move forward, the corporation borrows the funds at closing through ROC USA Capital, covering the purchase price, closing costs, and funds for urgent improvements.

## 5

### Lot Rents Cover the Costs

Monthly lot rents repay the loan and cover operating costs, including reserves for future repairs and maintenance. The goal is to keep rents as low as possible.

## 6

### Permanent Board Takes Over

After the purchase, members elect a permanent board to govern the corporation, with ongoing coaching and support from your business and governance advisor — and become part of a national network of homeowners who work together to advocate, educate, and share solutions.

# How much will this cost me?

1

## Initially-during the purchase exploration

A joining fee--$25 that will go towards future membership fee.

2

## At the time of purchase

Members will decide the full membership fee for the future. Your $25 will go towards that membership fee. New lot rents take effect at closing.

3

## Who pays to buy the park?

The corporation will apply for a loan to buy the park using ROC USA Capital financing. Some of the money may come from other lenders or a grant.

4

## How much will rent be if we buy the park?

Rents will be based only on cost to pay the bills, including funding reserves for future repairs. The target is to keep the rent as low as possible. A too-high rent may indicate that the purchase is not financially feasible.

# How we move from renting to owning

**Continuous Exploration** →

## 1

### First Resident Meeting

Learn, discuss & decide

## 2

### First Membership Meeting

Form, elect & authorize

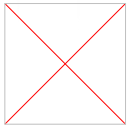
## 3

### First Interim Board Meeting

Organize & advance

# First Resident Meeting

*Learn, discuss & decide*



## Outcome

Congratulations, we decided to move forward together.

## 1 What we've learned so far

- Residents can buy the community by coming together
- Each household can become a member and shared owner
- There are benefits and trade-offs to consider
- Individuals do not directly pay to buy the park
- Decisions are made as a group
- ROC USA provides guidance and support every step of the way

## 2 What's next: Transition from understanding → evaluating → organizing

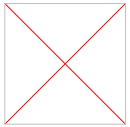
- Do we want to come together and form a corporation?
- What do we want to call it?
- What can we expect at the first membership meeting?
- Are we ready to join?

## 3 How do I join?

- Joining Fee Agreement
- Anonymous Income Survey
- Infrastructure Survey
- Communication Survey
- Pay $25 fee

# First Membership Meeting

*Form, elect & authorize*



## Outcome

Corporation is formed and the Interim Board is empowered to move the process forward.

## 1 What we'll do

- Sign up members
- Begin making decisions as a group
- Elect the Interim Board (who will lead)
- Adopt interim bylaws (how the corporation will operate)
- Empower the Interim Board (so they can act for the Members)

## 2 Build the team

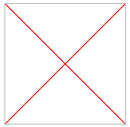
- Identify street captains (help share info)
- Form post purchase bylaws & rules committee

## 3 Plan ahead

- Set expectations for the first Interim Board Meeting
- Schedule first Interim Board Meeting

# First Interim Board Meeting

*Organize & advance*



## Outcome

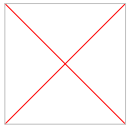
Interim Board is empowered to move the evaluation process forward while engaging members and building shared decision-making.

## Sample Agenda

- Overview of meeting basics
- Communication
- Administrative items
- Committee updates
- Legal support
- Financial planning
  - Review budget and funding approach
  - Discuss loan process
- Strategic Business and Agreements
  - Purchase and Sale Agreement
  - Technical Assistance Agreement
  - Signatory Resolution
  - Solicitations
    - Engineer
    - Property manager
  - Predevelopment loan application
- Open discussion

# What Happens Next

*The process moving forward*



## Outcome

A clear path from today to ownership.

## 1 Regular meetings

- Weekly Interim Board Meetings
- Additional Membership Meetings at key decisions

## 2 Due diligence

- Engineering study and site visit
- Property management
- Appraisal
- Title and survey
- Membership votes to move forward

## 3 Policies & decisions

- Approve key policies and vendors
- Review and update budget and financing

## 4 Moving toward purchase

- Apply for loan and secure financing
- Membership votes to move forward

## 5 Closing

- Final legal and financing steps
- Community becomes resident-owned

# Common Opportunity to Purchase Questions and Objections

## “It interferes with private property rights.”

OTP does **not require a landowner to sell the community real estate.**

OTP does not dictate a sale or the sale price.

When an owner decides to sell the community land, OTP simply gives the homeowners who live in the community and own homes that sit on that land a meaningful opportunity to buy it. OTP recognizes the property rights of landowners and the property rights of homeowners and balances those rights.

## “Owners should be free to sell to whomever they want.”

Property rights are routinely subject to reasonable regulations protecting tenants, consumers, neighborhoods, and the public good.

OTP is particularly justified because the transaction involves **land beneath permanent homes belonging to other people**.

# Common Opportunity to Purchase Questions and Objections

**“Forcing sales to residents functions as a restraint on alienation, effectively conscripting a private seller’s property rights and possibly raising constitutional “takings” because it removes the seller’s ability to choose their preferred buyer.”**

An opportunity to purchase does not force an owner to sell at all, nor does it require that the sale be below market price. The owner receives their price and terms. States, including Connecticut, Florida, Massachusetts, Minnesota, New Jersey, and Rhode Island have implemented some version of this approach. A duty to merely “consider and negotiate” can be circumvented by a seller

# Common Opportunity to Purchase Questions and Objections

**“OTP will reduce the value of the property.”**

OTP allows the seller to receive the same price and substantially the same terms offered by another qualified buyer. It creates another potential purchaser rather than imposing a below-market price.

The seller sells for a market-set price whether the buyer is a resident group or a third party.

There is no empirical evidence from existing OTP states of statewide price suppression

# Common Opportunity to Purchase Questions and Objections

## “Residents can’t afford to buy these properties anyway.”

Although some do, residents do not necessarily organize and finance the purchase themselves. They work with ROC USA, nonprofits, community land trusts, housing agencies, lenders, municipalities, or other qualified partners.

Because resident groups’ offers are anchored to the same current-use cash flow that generates the property’s market value (and because their rent payments — not speculative future development — cover debt service), they are, in fact, well-positioned to match a fair market offer.

## “Residents aren’t sophisticated enough to manage a community.”

Resident ownership is an established model around the country. Residents hire professional property managers, accountants, attorneys, engineers, and other specialists just as investors would. ROC USA provides technical support to homeowners.

# Common Opportunity to Purchase Questions and Objections

## “OTP delays legitimate real-estate transactions.”

In practice, as with other commercial real estate transactions, most MHC sales–even cash sales–take 90-120 days from contract to closing once due diligence, title work, and financing are accounted for. The law only guarantees that residents have a **commercially reasonable timeline** matching the timeline that many private buyers require (but not all – those not using financing can close more quickly).

Residents need time to organize, review financial and infrastructure records, conduct due diligence, obtain an appraisal and secure specialized financing. These laws cannot work if the residents aren’t guaranteed a commercially reasonable timeline.

# Common Opportunity to Purchase Questions and Objections

**“Notice requirements will delay and can interfere with seller’s ability to complete like-kind exchanges under Section 1031 of the Internal Revenue Code.”**

Because resident purchasers are uniquely motivated–they are buying the land under their homes–they are typically able to accommodate a seller’s need to accelerate or delay a closing to fit within the 1031 exchange deadlines–an accommodation that a third party investor might be less willing to make.

MHCs and other commercial real estate like apartment buildings are often interchangeable in these exchanges

In facilitating more than 365 resident transactions, ROC USA is not aware of an owner missing out on a 1031 exchange opportunity in practice