

PROCEDURE

**Resale
(Complements Resale of Units House Agreement)**

***Responsible committee: Outreach Committee
Resale Work Group***

Adopted: October 18, 2020

This House Procedure explains sequential steps to implement the Resale House Agreement and includes general information for all sales. In this document, the terms “PDXC,” “HOA” and “PDX Commons” are used interchangeably and refer to the legal entity PDX Commons Condominium Owners’ Association.

Step One – Informal Notice

Seller prepares to sell. Seller(s) contact(s) the Outreach Committee/Resale Work Group to discuss:

- Preferred timeline to provide PDXC with Notice of Intent (“NOI”) to sell.
- Whether Seller has a Buyer in mind. If so, Seller may request a waiver of the Right of First Offer process from PDXC (see below under Step Three). The Waiver process is *not* recommended for anyone on the Wait List. This preserves the right of PDXC members to make an offer.
- Process to set the **price and conditions** to arrive at an acceptable offer.

Resale Work Group discusses with Seller:

- **Is relationship already established with a real estate broker**, either to close the sale or to provide brokerage services for the seller? We recommend a flexible fee arrangement with broker, contingent on the level of service required to set the asking price and close the sale. If sale is accomplished with a PDXC Eligible Party, then marketing services of a broker may not be required.
- **Right of First Offer (ROFO) intent, process and marketing.** Explain to Seller the Wait List of potential buyers and the ROFO process.
- **Clarify with Seller** (and possibly Seller’s broker), if not familiar with PDXC:
 - PDXC HOA legal structure, Bylaws and House Agreements, including limitation on renting the unit or permitting short-term occupancy and other important disclosure items.
 - 55+ community designation and attendant restrictions.
 - Cohousing expectations of community participation in a self-managed building.

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- Participatory governance structure.
- Expectation of primary residency.
- **PDXC's request (not requirement)** that, if the sale is accomplished without incurring the traditional fee of a real estate broker (due to reduced marketing costs and other assistance from PDXC), then a portion of the savings (suggested 1% to 2% of the sales price) be given to PDX Commons Condominium Owners' Association as a voluntary contribution to be used for the benefit of the community.
- With understanding that the Seller is likely to issue an NOI *and* the seller agrees, **first notice** is given to parties interested in PDX Commons to alert them to the possibility that a unit may become available in the foreseeable future. This will be done through channels such as the PDX Commons website, Facebook page, newsletter, mailing lists, etc. No mention of unit #, description (except perhaps the number of bedrooms), timetable, nor pricing, and specifically saying more information will follow if the opportunity develops and directing interested parties to the PDX Commons website for updates.

PDX Commons
SAMPLE Home Sale Opportunity Notice

A home may come available for purchase in the next several weeks.
No details yet available but consider your interest in bidding. More information to follow as community works through the Right of First Offer process, as outlined in the PDX Commons Bylaws.

Step Two – Written Notice of Intent to Sell

Seller decides to sell and submits a Notice of Intent to sell (NOI) to the Chairperson of the PDX Commons Condominium Owners' Association and to the Convener of the Outreach Committee. See attached template for an NOI.

Note: PDXC may *not* be involved in determining the price or related negotiations between the seller and any potential buyer, unless PDXC is a bidder to purchase and only involved as a willing buyer.

Step Three – Waiver

Seller may request, using the NOI form, that PDXC waive its Right of First Offer (ROFO) if Seller has only one eligible purchaser in mind. Written request goes to Chair of PDXC and Convener of the Outreach Committee. As noted above, the Waiver process is *not* recommended if prospective purchaser is on the PDXC Wait List. This preserves the right of PDXC members to make an offer.

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- Request must include name of the person to whom the seller wishes to sell the unit and evidence of the person's interest in cohousing and familiarity with PDX Commons.
- PDXC Board/Committee of the Whole (COW) has up to 14 days to decide whether to agree to waive the ROFO period.
- Process: Outreach Committee formulates recommendation to PDXC Board/COW. Criteria for agreeing to waiver could include:
 - Whether buyer is familiar with cohousing in general and PDXC in particular.
 - How determined the seller is to sell only to this particular buyer.
 - Whether the prospective buyer is ready and able to buy.
 - Whether existing PDXC members have expressed interest.
 - Whether the preferred buyer is on either of the Wait Lists.
- If PDXC agrees to waive, seller can proceed to sell to the party named in the request to waive. This buyer must participate in a PDXC orientation and review the Governing Documents. *If sale is not accomplished, the ROFO process starts over.*
- If HOA decides *not* to waive the ROFO, the ROFO period begins on the date of denial.

Step Four – Right of First Offer (ROFO) Process

If no waiver is granted, PDXC has up to 20 days to decide whether the HOA will make an offer or encourage offers from Eligible Parties by assigning the ROFO.

Day 1 – 20: Within the first 20 days, the following must be accomplished:

- Current Owners and Wait List members are notified of impending sale with general information on when any prospective Buyer can make an offer.

<p>PDX Commons <u>SAMPLE Home for Sale Opportunity Notice</u> #xxx. [] BR/[] Bath, xxxx sq ft unit. []-facing exposure. Garage spot included. Tenant In Common ownership of over 5,000 sq ft of common space. Asking Price: \$. If interested, please contact >>>>>>>>>>>>>>>>. Photos available at</p>

Note: We recommend that prospective bidders contact the Resale Work Group *before* contracting with buyer's broker, because a full-service contract may not be required.

- **PDXC to purchase?** Outreach Committee convenes (after gathering broader input from community) to formulate a proposal recommending bidding or not bidding on the property for sale. The proposal will take into consideration whether PDXC has the interest, resources and capacity to purchase the available real estate.

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- If the proposal recommends forfeiting the HOA's right of first offer and *not* bidding on the property, the proposal is reviewed and endorsed by the Coordinating Committee. If the committee cannot reach consensus on endorsing the proposal, the HOA chair will convene a special meeting of the Committee of the Whole as soon as possible. The committee will attempt to achieve single-pass consensus on the proposal because time may be of the essence.
- If the proposal recommends exercising the HOA's right of first offer and bidding on the property, the HOA chair will convene a special meeting of the Committee of the Whole to discuss terms, conditions and source of funds. The proposal will specify the members of the purchase work group. Following is a suggested process:
 - At the special meeting, the Committee of the Whole will attempt to achieve single-pass consensus on the proposal because time may be of the essence.
 - If the proposal is ultimately accepted through this vote, the purchase work group will proceed to negotiate in good faith with Seller. As an alternative, the community may decide to hire someone to handle negotiations.
- Outreach notifies Seller of PDXC decision. Once an offer is made to Seller, the ROFO day count pauses until Seller makes a final decision.
- **PDXC assigns its ROFO** — giving Eligible Parties the right to make offers. Eligible Parties include current owners, Priority Wait List members and Regular Wait List members.
 - Eligible Parties will have 20 days from the date of assignment to make offers before the property can go on the open market.
 - Offers submitted to Seller.
 - Owners who bid are asked to notify Convener of Outreach Committee that an offer has been made.
 - Seller notifies Convener whether any offers received from Eligible Parties will be negotiated further (and may result in a sale), or whether Seller will move to the broader public market at the expiration of the 20-day ROFO period.

Important notes about the ROFO period:

- The entire ROFO process can take up to 40 days, but the period will be shortened if the HOA takes fewer than 20 days to make its decision about bidding on the unit or reassigning the ROFO.
- Suggested process to set asking price:
 - Contact three brokers familiar with pricing cohousing and ask for an estimate of market value of unit.
 - Seller may contract with one of these brokers to either close the sale or provide partial or full broker services for the seller, including marketing, if sale goes beyond the ROFO process.

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- Resale Work Group can provide names and contact information for recommended realtors who have demonstrated an understanding of the concept and reality of cohousing.
- An Eligible Party can submit an offer to the Seller, once assigned the right to bid, until the end of the 20-day ROFO assignment period *or any time thereafter*.
- Seller is encouraged to give priority to offers from Eligible Parties in this order: Owners, then Priority Wait List, then Regular Wait List.
- Seller and Seller's broker, if any, negotiate offers.
- During the 20-day ROFO assignment period, the Seller is bound by the Bylaws to accept offers only from Eligible Parties. Seller or Seller's broker may not market the unit to other parties or on the MLS during the ROFO process.

Step 5 – Post-ROFO Marketing and Sales

After the ROFO period has expired, Seller may market the unit and receive offers from any potential buyer.

Marketing

Seller may call on the Resale Work Group (RWG) to assist in marketing.

- Publicize listing to PDXC mailing lists and on the PDXC website.
- Post written listing on websites, flyers and bulletins, such as Coho US website, PDX Plus Google group, Co-Housing in Portland Facebook page maintained by Adesina Cameron.
- Provide tours and open house opportunities.
- Make available schedule of upcoming events (community meals, business meetings, social events, etc.).

Resources

- RWG can provide list of resources (lenders, mortgage brokers, appraisers, realtors, moving companies).

Seller's real estate agent (during and after ROFO period)

- Any broker must work with RWG to understand the nature of cohousing and the rights and responsibilities of PDX Commons ownership. PDX Commons Declaration, Bylaws, and House Agreements are legally binding documents.

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- Broker attends a bidder/prospective owner's orientation and works with Outreach Committee/RWG to coordinate tours and open houses.
- The HOA will provide all documents legally required for sale of a condo, as well as PDX Commons documents that define the unique aspects of the cohousing culture and community responsibilities. The broker will provide these documents to potential buyers.

Step 6 – Procedures Applicable to Sales Process Under *All* Circumstances

Before any bid is accepted, a potential buyer *must*:

- Review the Governing documents of PDX Commons Condominium Owners' Association and agree to comply with those provisions.
- Read and understand certain PDXC-specific community documents that will require signature — e.g. Participation Agreement, Care Agreement.
- Attend, if feasible, a Community meal, a social event and a Committee of the Whole meeting to meet the other PDX Commons community members.
- Attend an orientation for potential buyers before a bid is made. The orientation is offered by the Outreach Committee to provide prospective buyers an opportunity to understand and discuss:
 - Background on cohousing in general.
 - Potential challenges of living in cohousing.
 - Requirement that PDXC be primary residence for all members.
 - Consensus decision-making.
 - Expected level of participation and work on behalf of the community.
 - Community meals.
 - Key House Agreements such as those on smoking, pets, firearms, and rental restrictions.
 - Opportunities and limitations for aging in place.
 - Implications of PDXC as a 55+ community.

Seller shall inform the Convener of the Outreach Committee and Chair of the PDXC Board in writing of an agreement to sell the unit when it is executed. Include information demonstrating how buyer met the requirements listed above.

Step 7 – New Owner Orientation

Resale Work Group coordinates logistics of transition for an incoming Owner/Resident:

- Assigns buddy and welcomes new member(s) to become part of the community.

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- Compiles New Community Member packet.
- Provides orientation to the PDXC Portal and other communication channels used and managed by the community.
- Orients new owner(s) to kitchen and meal preparations and weekly task assignment as a required contribution to the community.
- Asks new owner(s) to prepare biography that can be added to PDXC website.

Step 8 – Seller Donation

If Seller closes sale with any buyer identified through HOA outreach efforts and the sale does not involve paying a full fee to a real estate agent or broker, the Seller is asked to consider making a voluntary donation to the HOA (1–2% of sale price suggested). Donated funds will be designated for use by the PDXC community through the budget planning process.

Step 9 – Debrief Sale

The HOA and Resale Work Group will offer an opportunity to debrief how the sales process went for the seller, broker (if any) and buyer. A debriefing might serve to further refine or modify the process.

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FAQs for PDXC community

1. **Who covers PDXC-incurred costs during the ROFO period?** PDXC annual budget.
2. **When should a selling owner hire a seller's broker?** Any time. Broker may be helpful to set the asking price, prep the unit for showing, take photographs and create video tour and sales flyer, and get sales documentation prepared. However, the Seller's broker *may not market to other than Eligible Parties nor solicit nor accept any bids until the end of the ROFO period.*
3. **How can PDXC recruit prospective buyers from the "young old" demographic?**
Good question. Also, up to 20% of our units (up to five) may be owned by persons younger than 55.

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PDX Commons Unit Resale Timeline

Expectation of sale—let HOA know so it can provide advance notice to eligible parties



Seller provides HOA with **Notice of Intent to Sell (NOI)** — with asking price



DAYS 1-20 from NOI

Right of First Offer to HOA (collectively), which has up to 20 days to decide whether to make an offer or reassign *



DAYS 1-20 From HOA reassignment

Right of First Offer to current owners, priority wait list, and wait list



Day 20+

Open offers from the public

Seller and HOA work cooperatively to schedule open houses, tours, orientations in order to be sure that prospective buyers are well-informed about PDXC community living. If the unit is sold without requiring the services of a real estate agent, the seller is asked to donate back 1-2% of the purchase price to the HOA for its assistance in finding a buyer.

Note: Parking spaces are separately titled and may be sold separately from a unit. If sold separately, the seller is encouraged to consider selling to a current resident without a parking space. Each unit is provided with a storage cage. Depending on the location of the cage, it may or may not be sold with the unit.

*If the HOA takes fewer than 20 days to decide to reassign the ROFO, the process moves directly to the 20-day reassigned ROFO period.

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Notice of Intent (NOI) to Sell a Residential Unit

Current Owner Name: _____

Date: _____

Unit #: _____ Parking Space # included, if any: _____

Is Parking Space available for sale separate from unit? YES NO

Storage Unit location: _____

LISTING PRICE: \$ _____

Any terms of sale that a potential buyer should be aware of?

Seller's Broker, if any:

Do you intend to ask the HOA to waive its Right of First Offer? YES NO

If yes, please list the name and provide your understanding of the prospective buyer's familiarity with cohousing and knowledge of PDX Commons:

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Please submit this NOI form to the Chair of PDX Commons Condominium Owners' Association and a copy to the Convener of the Outreach Committee. Before submitting, a selling Owner should review unit resale requirements and opportunities explained in paragraphs 12 and associated sub-paragraphs of the "Declaration of Condominium Ownership for PDX Commons," plus the relevant House Agreement on Resale of Units and associated procedures. These are available on the PDX Commons community portal or by contacting the Convener of the Outreach Committee.