

PROPERTY

PROFESSOR KRISTELIA GARCÍA

CLASS 17(B): COOPERATIVES AND CONDOMINIUMS

Class Outline

- Common-interest communities:
 - Cooperatives
 - Condominiums
 - Subdivisions

Common-Interest Communities (CICs)

1. Condominium: fee simple ownership of unit and tenancy in common of outside walls, common areas etc.; usually includes a condominium association. Very flexible: can be used for buildings, townhouses, detached units.

Passing of condo statutes around 1960. Statutes limit right to partition condos (otherwise a disaster).

2. Cooperative: each owner owns a share of a corporation that owns the building and has an indefinitely long “proprietary lease” to unit. Traditionally more sharing of financial risk (so one reason for more nosiness in admitting new members), but less so now that coop owners can mortgage their shares (this wasn't always the case).

3. Subdivisions, planned unit developments especially in the suburbs, often with a homeowners' association.

Fair Housing Act, 42 U.S.C. § § 3601-19, 3631

§ 3604 is aimed at discrimination in:

- availability (§ 3604(a)),
- terms and conditions (§ 3604(b)),
- advertising (§ 3604(c)),
- lying about availability (§ 3604(d)),
- and blockbusting (§ 3604(d))

on the basis of race, color, religion, sex, familial status, or national origin.

Antidiscrimination provisions relating to availability and terms and conditions with respect to disabilities are in § 3604(f).

2 Primary Exceptions to § 3604 (except for advertising)

- § 3603(b)(1) sale or rental of single-family house by owner (with limits to make sure it is not really a business)
- § 3603(b)(2) “Mrs. Murphy” exception for a building with no more than four units one of which the owner lives in.