

The Master Apartments, Inc

Trust Information and Guidance

Revised: April 4, 2023

This document on the advantages and considerations of setting up a trust is provided as a service to Shareholders. As in any legal matter, the Shareholder should consult with their own legal counsel. The Master Apartments is not responsible for an individual shareholder's decision on the creation of their trust should they decide to proceed.

Why consider a trust? If you prepare a will, or if you do not have a will, your apartment will pass to your heirs pursuant to the New York State law regarding estates. In either case, probate or estate administration proceedings will be necessary to determine the validity of your will, if any, and to have the court authorize a fiduciary to administer the estate. These proceedings can be lengthy and expensive.

To assure an orderly transition after death (and the continued payment of maintenance) without surrogate court proceedings, the Apartment Corporation permits shareholders to transfer their apartments to trusts. Under a trust agreement, which can also result in significant tax savings, you can retain the right to reside in the apartment during your lifetime and to direct how the trust property is to be distributed at death. However, to protect the cooperative, you will (among other requirements) need to have all occupants of the apartment approved and to guarantee the payment of monthly maintenance. All legal expenses for reviewing the trust and preparing any documents for the cooperative will also be your responsibility.

Detailed below are some general guidelines to be considered with respect to transferring your apartment to a trust. Note that this is for informational purposes only, and that, if you have a mortgage, you should seek the approval of your lender before finalizing your trust. The lender, if any, will also need to submit the original stock and lease to be cancelled and substituted with documents in the name of the trust.

- A. The shareholder seeking to transfer, or their counsel, must provide an explanation as to what prompted the proposed transfer. Depending on the type of trust and circumstances surrounding the trust, certain financial or other information may be requested to assist the board in “vetting” the proposed beneficiary.

- B. If a bank holds the underlying mortgage, the shareholder must provide the written consent of the bank to transfer to trust. To save costs, we suggest that this process, which could take some time, be initiated before approaching the managing agent. The shareholder or their counsel must also coordinate the release of the existing stock certificate and proprietary lease to be available at closing.
- C. All organizational documents for the trust must be reviewed by counsel to assure there are no potentially problematic provisions and to ascertain who has authority to sign the new proprietary lease, occupancy agreement, and guaranty.
- D. Legal fees incurred in the review of the trust are to be paid by the shareholder requesting transfer. Note that there is a minimum fee of \$1,500.00 for reviewing the trust by the Master legal counsel, which will include the standard transfer fee of cancelling the current stock certificate and proprietary lease. If extraordinary work is required, it will be billed at the legal counsel's current hourly rate.
- E. Consistent with our policy of owner occupancy, subletting of any unit will be prohibited. Only the designated occupant under the trust as approved by cooperative will be allowed.
- F. Any individual who will reside in the unit, other than the initial individual shareholder of record, must, upon request, be interviewed and approved by the Board of Directors.
- G. The initial individual shareholder and, if appropriate, any designated occupant must sign a personal guaranty re: maintenance payments.
- H. Any successors to initial trustees must be bound by the standard proprietary lease and occupancy agreement (which will be provided once trust is approved).
- I. Counsel for the initial individual shareholder must prepare an opinion letter of trust that the trust was validly formed, that the trust is in full force and effect, that the trust is empowered to engage in the transaction, that the signatory is authorized to act for the trust, and that Orsid and the Cooperative are entitled to rely on this opinion.
- J. The minimum flip tax of ten dollars per share to be paid upon transfer from the initial individual shareholder to the trust. Any subsequent transfer from the trust will be subject to the cooperative's standard "flip tax."

- K. Any proposed trustee outside of New York State must consent to jurisdiction of court in the event of litigation. The occupant of the unit must also agree to act as the agent for service of process or, as an alternative, local counsel must agree to be the agent.
- L. No changes to the trust agreement, including changes to the beneficiary, can be made without board consent inasmuch as it may affect the financial obligations of the trust and who may reside in the unit. All trustees, current and future, to be fully disclosed.
- M. All forms and fees related to transfer, including Real Property Transfer Tax, and fees to be paid by shareholder with proof of filing must be provided to the cooperative.
- N. A lien and judgment search must be performed at initial shareholder's expense and provided to counsel for review.
- O. A proxy must be signed from the Trustee to the apartment corporation to assure a quorum and passage of important documents.
- P. Any abatements or exemptions established by NYS or NYC with respect to real estate taxes may no longer be available once the trust is established. This should be discussed with initial shareholder's financial planners.
- Q. If you are a long term resident and move your shares into a trust, you may sublet your unit per current sublet rules. Trusts purchasing units must have a steady occupant for five years before they can sublet (Added 4.4.23)