

Guide to the transfer of ownership of a share & a mobile home in JHBR



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Introduction

Jack's Hole Beach Resort DAC (JHBR) is a non-profit company which operates a mobile home resort and is owned by the residents, each holding an equal share in the company. JHBR employs permanent staff and is led by a Management Group including a Board of Directors made up of residents elected to the role at each AGM. An annual moiety is charged by the company to each shareholder in order to fund the operation of the Resort and maintain the infrastructure to a high standard. Each share is directly associated with a particular site. Each shareholder provides an interest-free loan of on average c. €30,000-€35,000 to the company for the duration of their ownership of the share, repayable when the next owner makes the same-value loan to the company, in turn.

As well as their share in the company, each resident owns their mobile, deck and any structures (sheds for storage) on or directly beside the deck. It is these items, along with the share that the resident is selling to the purchaser. (They are not selling their "site" which, like all the lands, planting and infrastructure in the Resort, belongs to the company.) Once approved in line with the company's Constitution, the purchaser can expect to be granted a licence to retain the mobile and deck on the site linked to the share that has been purchased and use it under the same terms as all other residents. Sheds must be returned to their storage role prior to the closing of the sale, in the rare number of cases that they have been previously adapted to any other use.

Delegation

The Chair may delegate the tasks described below as being undertaken by the Chair to a member of the Management Group or a member of the executive, as the Chair sees is then in the best interest of the facilitation of any transfer.

The sales process

The bidding cycle

Once a resident decides to sell, they will obviously seek as high a price for the sale as they can, until such time that they offered at a selling price that they wish to accept. It may be useful to ask the Chair to organise the circulation their decision to sell among residents, as many mobiles in JHBR are purchased by persons known to other residents. They may advertise the sale publicly.

As the mobile *et al* is not the property of JHBR, the company will not advertise the sale on the company website. Where the seller decides to place an advertisement online, the company can email those who have expressed an interest in purchasing a mobile with a link to that online advertisement. (For reasons related to GDPR, the company cannot share these email addresses with the resident selling their property.)

As they get down to a short-list of the more serious contenders, it may be useful to share this Guide with them, so that they in turn understand the purchase process. At any stage during the sale process, the resident who is selling may end the entire process should they decide not to sell after all.

Notification to the Chair

Having completed the above bidding process to the satisfaction of the selling resident/shareholder, the company's Constitution requires the seller to notify the Chair in writing (chair@jhbr.ie) of the price they have agreed to accept and share the identity of the proposed purchaser. This selling price must reflect the agreed value of the mobile, deck, structures on / beside the deck, the share and the shareholder's loan. This is an important step

and should therefore not be taken lightly – once this information is shared with the Chair, no higher price will be available to the selling resident.

Note once a selling price is agreed and confirmed by email to chair@jhbr.ie the offer to sell shall remain open for the period set out in the email sent out by the Chair (typically 7 days) during which time the offer may be accepted by the Company or its nominee (See Appendix II) and during which time the offer cannot be withdrawn by the seller in order to facilitate the pre-emption process. (See below.)

Pre-emption

Pre-emption background

The company's Constitution provides for a system of pre-emption of any sale, with a schedule of persons with five different levels of the right to pre-empt – See Appendix I.

It is most important for all residents/shareholders to note that if the proposed (initial) purchaser is a shareholder at a given level, no other shareholder at the same or lower level may pre-empt the successful accepted bid by the seller. Residents / Shareholders who are minded to make an offer to buy the share and the associated mobile *et al* should bear this limitation in mind and consider actively engaging during the bidding cycle described above.

Notification to shareholders

The Chair will notify all shareholders of the proposed sale, including details of the price agreed between the seller and the proposed Purchaser. Where the proposed purchaser is a resident / shareholder, this fact will be included in the notice along with the pre-emption level position in the list in Appendix I, the purpose of which is to advise residents at the same or lower levels that they have no means of pre-empting this sale. (The notification will nonetheless be sent to all residents, in the interest of transparency.)

As part of this notice, the Chair will set a cut-off time and date for the end of the pre-emption period (typically seven 7 days). Any resident shareholder wishing to pre-empt must send an email (chair@jhbr.ie) and it is advisable for them to request confirmation from the Chair of the receipt of same, for the avoidance of doubt.

The Chair will not communicate the existence or otherwise of a pre-emption bid(s) with others during the pre-emption period so as to avoid any market interference, with the sole exception of engagement with the Management Group or external professional advisors, should a technical issue arise related to the sale process during this period.

Actions at the end of pre-emption period

No later than two days (but often far earlier) after the end of the pre-emption period, the Chair will advise the seller if the proposed sale was pre-empted or not. Where multiple valid applications are received from residents at the same level in the list in Appendix I, the Chair shall organise a draw so that one named resident comes forward from that draw.

Where the sale has been validly pre-empted, the Chair will advise the seller of the identity of the resident who has successfully pre-empted the proposed sale.

Where the sale has not been pre-empted, the Chair will advise the seller of this and it is then in order for the seller and the proposed purchaser to agree a schedule for the hand-over and payment, including a "hand-over" date, a date to be agreed with the seller when the keys of the mobile *et al* is handed over and the share transfer requirements are properly completed. (See *Recording the share (stock) transfer below*).

In either case, the seller is advised to inform the proposed purchaser of the outcome as soon as practical.

Steps at the time of the hand-over

The purchaser should indicate to the Chair by email if they wish to record the share, licence, etc. in their sole or joint names, providing full contact details for those to be recorded (Full name, home address, mobile phone number and email address.) These details will be used to set up accounts and related administration activities. (See our GDPR statement for details of uses of the details of residents.) It would be a convenience for all if the purchaser notifies the Office (office@jhbr.ie) of the registration of their vehicles, for use with the automated ANPR for easy access to the Resort.

In the case of no-pre-emption

The purchaser is obliged to transfer the value of the Shareholder's Loan directly to the JHBR's bank account, at a time prior to the agreed hand-over date this will facilitate the repayment of the shareholder's loan to the former shareholder who now has agreed to sell.

In the case of a valid pre-emption

The purchaser in this case must pay the full agreed value to JHBR (the agreed value to include the mobile, deck, structures on / beside the deck, the share and the shareholder's loan) by the date set out in the email inviting pre-emption from the Chair, typically within one week. Should a resident make a pre-emption bid and not complete within the set time, they are liable for 10% of the value of the agreed value as a charge to offset costs, etc.

In either case

The new purchaser will receive a Shareholder's Loan Agreement, which they are required to approve and sign. They will also receive a licence for the period to the end of the licencing cycle, in line with other residents, which licence should also be signed and returned. In JHBR, all agreements and licences are signed electronically – please see jhbr.ie/sign for details.

Having previously agreed a hand-over date with the seller, the purchaser should advise the Chair in writing (chair@jhbr.ie) when they have full, vacant possession of the mobile including keys, fobs, etc. As soon as practical after that, the seller will have their Shareholder's Loan repaid by JHBR (less any outstanding balance on their account), for which the seller's bank details are required.

Recording the share (stock) transfer

In order to record the sale of the share, the purchaser and seller should arrange for the completion of a Stock Transfer Form to be completed and then sent for stamping by the authorities (see Revenue.ie). This stamping cost is a cost to be borne by the purchaser.

Stamp duty is typically 1% of the value of the share at the time of writing. The value of the share will vary over time and by location on the Resort but should be at a price agreed between the seller and the purchaser at the time of the negotiation of the sale. Approximate guidance can be provided but definitive advice should be obtained by the purchaser and the seller from their preferred advisors.

Once the stamp duty is paid online with evidence of completion or on the stock transfer form by the purchaser or such means as may be required by the Revenue, a copy of such evidence should be sent by the purchaser to the company's Secretary so that the new ownership can be recorded in the company's share register. (See Appendix II) For further advice on the completion of this process, the purchaser should first turn to their professional advisor.

Payments for which the new owner may be liable

Moiety payments

Depending on the terms of the sale agreed, there may be future moiety payments due on the site just purchased, payable by the new owners. These can be paid immediately or by signing up online to the monthly payment system (known as NuaPay) available to residents (see jhbr.ie/sign). This monthly system of variable direct debit payments is preferred by the company as the regular monthly debit can run from year to year with little effort by either party and this system is also used to pay periodically for electricity use. This also reduces the administration costs for the company.

Electricity charges

At the time as close as possible to the hand-over date, the electricity meter will be read and a charge will be calculated, based on electricity used between the last bill issued and the handover date. This is typically a modest amount, the settlement of which should be agreed between the seller and purchaser. The new owner will be charged for the full amount used since the last bill, so it would be reasonable to ask the seller to adjust for this charge in the final calculations of payments for the mobile. It may be simplest for the seller to pay this amount directly to the buyer, or where no pre-emption was involved, deduct it from the selling price. Either way, this is something to be agreed between the seller and purchaser.

Questions

In general, the Chair is available to informally and confidentially answer any questions the seller or potential purchaser may have, from time to time. It is worth reminding all parties to the sale that they should seek appropriate professional advice as they see fit.

Precedence of the company's Constitution

This document was developed in 2021 to be a helpful guide in line with the company's Constitution. Where any conflict between the two documents arises, the Constitution (as amended) shall take precedence.

Appendix I

As per the company's Constitution the company has a primary right to pre-empt a sale. Thereafter, the Priority List is as follows –

- (i) Shareholders who formerly owned two "A1" Redeemable Ordinary Shares who have not yet subscribed for an "A" Ordinary Share in respect of each Share in their capacity as former "A1" Redeemable Ordinary Shareholders;
- (ii) Shareholders who formerly owned one "A1" Redeemable Ordinary Share who have not yet subscribed for an "A" Ordinary Share in their capacity as former "A1" Redeemable Ordinary Shareholders;
- (iii) Shareholders in their capacity as lenders or former lenders of the 3 Year 5% Term Loan at the time the Resort was purchased in May 2014, who have not yet subscribed for an "A" Ordinary Share in their capacity as former 3 Year 5% Term Loan lenders;
- (iv) Shareholders who were "A" Ordinary Shareholders on the 24th of November 2014;
- (v) Shareholders who became "A" Ordinary Shareholders subsequent to the 24th of November 2014;

It is most important for all residents/shareholders to note that if the proposed (initial) purchaser is a shareholder at a given level, no other shareholder at the same or lower level may pre-empt the successful accepted bid by the seller.

The full provision related to pre-emption as outlined in the company's Constitution, including such details as sales to family members, should be reviewed in each case.

Appendix II

- Company Secretary: Dermot O'Malley & Co.,
Block 3 Saint John's Office Court Park, Swords Road, Dublin 9. D09 VK65.
Phone (01) 855 5700 – Contact: Ruairí McArdle, Partner
- Sample share / Stock Transfer Form on www.jhbr.ie/transfer