

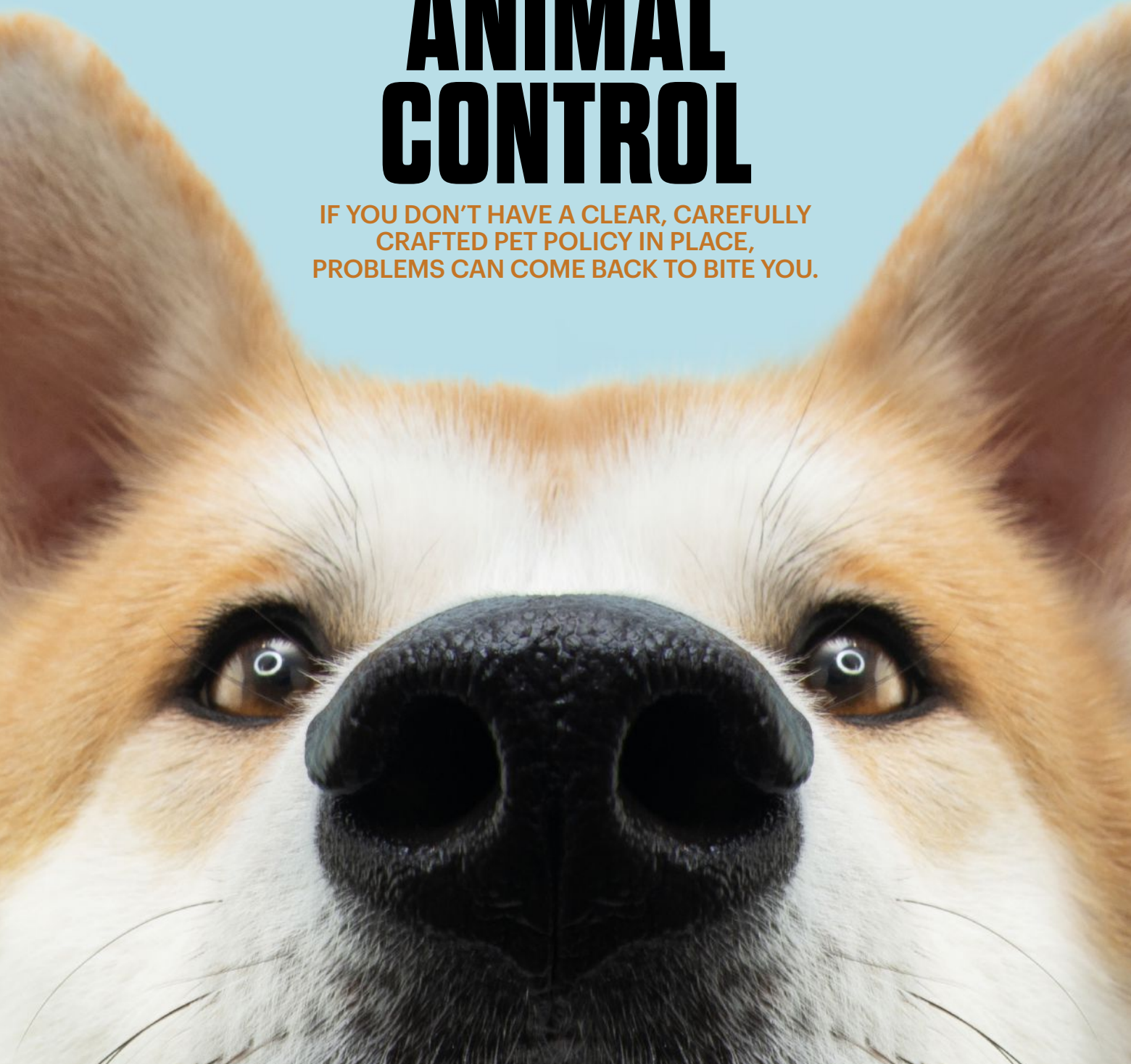
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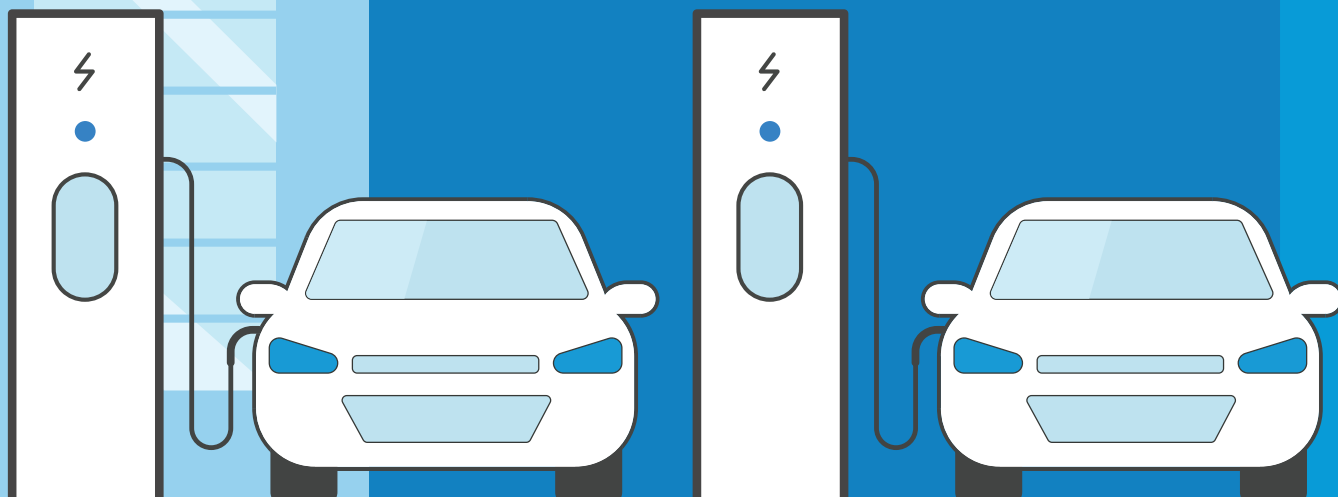
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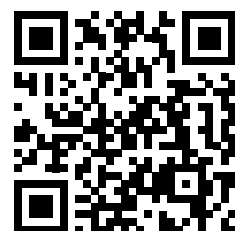
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BY CAROL J. OTT, PUBLISHER AND EDITOR-IN-CHIEF

▶ **WHEN THERE ARE** decisions you have to make frequently, they become second nature. The challenge is the infrequent decision. And that describes our three features this month, about pets, emergencies and assessments. Really, a trio of tough decisions.

True building emergencies are rare — I'm talking about fire and structural dangers. These are the behemoth ones where evacuation is necessary. Your building probably has an emergency plan, but my guess is that it doesn't have a plan to deal with the aftermath. Where do residents go if they can't return to their apartments? Who pays for temporary housing, and for how long? How is your co-op or condo going to pay its bills if no one, or very few of its monthly payers, is living in the building? There are answers for these nightmare questions, and our feature this month will acquaint you with some of them.

And then there are pets, which most of us love and probably even cherish — that is, until someone sneaks a dog or other animal into your building that is over-size, unapproved and annoying to all. Many boards have already



LESLIE M. STRAUSS

instituted pet policies. But on the off chance your building hasn't, our reporting this month should offer some guidance on how to fashion one.

Bringing up the rear of this trio of tough decisions are assessments. Everyone probably imposes them at some point or another. Doing so requires planning carefully, crafting a thoughtful and smart message to building residents and anticipating how to deal with pushback. There are key areas to pay attention to, and our reporting will guide you to them.

Enjoy the issue!

A handwritten signature in black ink that reads "Carol J. Ott". The signature is fluid and cursive, with a large initial 'C'.

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Smart Move



SHUTTERSTOCK/AFRICA STUDIO

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SAVING THROUGH SUBSCRIBING

By Emily Myers

Taking the lead. Faced with a projected six-figure annual carbon emission penalty starting in 2030, Fordham Hill Oval, a 1,130-unit co-op in the University Heights section of the Bronx, is installing thousands of smart radiator covers to cut fines and save on energy costs. It's a pioneering step: The co-op is the first to take advantage of a no-money-down subscription payment model for the

technology, making it an affordable way for the complex to meet Local Law 97 regulations.

The custom radiator covers, known as Cozys, are simple metal cabinets with an interior duct and fan, designed to trap heat and release it based on individual settings in each unit. Around 2,400 of the latest-generation covers are being installed, which the co-op will pay for through a monthly

\$15 fee per unit for 15 years. The cost will be offset by the estimated 24% savings in annual energy bills, amounting to more than \$170,000.

The subscription payment model has been available for only about six months and is made possible by a \$100 million deal between the manufacturer, Kelvin, and ClearGen, which is

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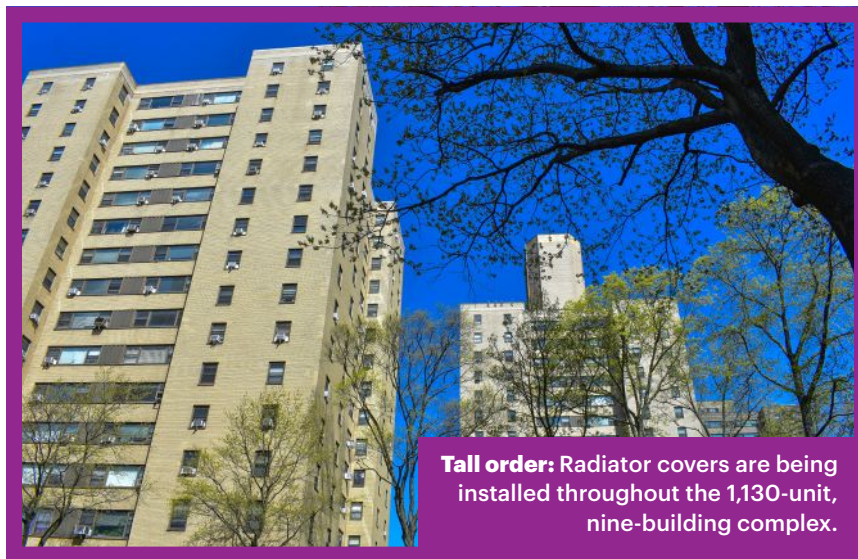


Smart Move

part of a portfolio set up by the investment management company Blackstone to fund clean energy initiatives. “Based on future revenue from projects, ClearGen will fund the entire project upfront,” says Marshall Cox, Kelvin’s CEO and founder. With other capital projects underway at Fordham Hill Oval, including electrical upgrades, facade repairs and the installation of building-wide smart sensor technology, the low-cost subscription offer was well timed. “That was why board members were convinced it was the way to go,” says Blandon Casenave, the board treasurer.

Eliminating extremes. The nine-building co-op has a gas-fired boiler and a metro steam system, a two-pipe system installed in campus-style postwar apartment complexes. “Steam rises to the top of the building and filters through radiators as it travels down to the bottom of the building in each line,” explains Matthew Isaacs, Kelvin’s vice president of business development. As a result, these types of buildings are often overheated at the top and very cold at the bottom. “The Cozy system will help balance that out, all while providing specific room-by-room temperature control to shareholders,” he says.

Added benefits. A feature of the newest Cozy model is a digital screen that shows information about room temperature, humidity, ambient light and air quality. “These additional insights allow us to provide valuable system alerts for management and residents,” Isaacs says. Another



benefit of the radiator covers is how they slow the building’s steam condensation rate. With the radiators in an insulated environment, steam remains in the system longer before it runs back to the boiler. This means the system doesn’t have to work as hard during the winter.

The decision to pair the radiator covers with building-wide heat sensors, provided by the heating-system management platform Runwise, produces even more savings because the boiler

is getting more accurate data about demand. With the boiler running fewer heating cycles, its useful life is extended. The board is confident it’s not only made a significant dent in the building’s projected carbon emissions penalty but also made the co-op competitive with new development projects in the area. “There are new buildings going up around us, and by upgrading our offering with climate control in the units, we believe we offer real value in our neighborhood,” Isaacs says. ■

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Smart Fix

UPGRADES

COOL SAVINGS IN NoMAD

By Emily Myers

➤ **A COOLING TOWER** replacement project at the 12-story, 20-unit NoMad co-op at 22 W. 26th St. is set to provide a 40% reduction in energy costs, a 30% reduction in the tower's operating costs and up to 50% savings in water use. With new high-efficiency controls, the self-modulating cooling tower can scale cooling based on demand. And that's just part of a range of recent upgrades aimed at improving the building's D energy efficiency grade.

Even though energy consumption was front of mind for the board, the pressing issue with the existing cooling tower was its age. "It was in terrible disrepair, with lots of rust, and on its very last legs," says Isabel Taube, the board president. In selecting a replacement, the board chose a three-cell cooling tower.

Optimal operation. A cell is a stand-alone fan component necessary for cooling that can work by itself or in conjunction with other cells. "The new cooling



Maximum efficiency: The cooling tower is expected to generate 40% in energy savings and lower operating costs by 30%.

tower can reduce its operation so it can save money for the building and also reduce the amount of water being used," says Conor Goold, a project manager at Howard L. Zimmerman Architects & Engineers, who oversaw the installation at the prewar building.

Moving from a cooling tower that ran at 100% capacity in summer to one with efficiency controls is expected to reduce the tower's operating costs by around 30%. The building also expects to see up to 50% savings in water

use because the self-modulating cells scale operation based on demand.

Perfect timing. Although the cooling tower replacement was overdue, the timing for the project was ideal. Ivana Pavlica, a resident manager at AKAM who works with the building, says the timing allowed the building to invest in the state-of-the-art energy-saving model. "If we had done it two or three years ago we would not have benefited as much from

the new technology,” she says.

The cooling tower replacement is also paired with upgrades to the pumps in the cellars and the addition of variable frequency drives. These improvements introduce the ability to control pump speeds based on demand and save on energy costs. The upgrades also allow the super to more easily switch from seasonal heating to cooling without the manual closing of valves. The \$460,000 project is being financed through a \$1.3 million assessment, which will also pay for extensive facade work and a new fire alarm system for the building.

Overcoming obstacles. The installation wasn't without its challenges. Not only was the tower in bad shape, but the decades-old steel beams supporting the structure also needed replacing. An inspection then found asbestos in the paint that had been applied to the steel, which required an abatement before the beams could be removed.

Due to the co-op's proximity to Madison Square Park, the project was further delayed by a construction embargo for the winter holidays. "It is a big tourist area," Taube says. These embargoes are imposed by the Department of Transportation at certain times of the year and prevent the approval of new permits. This pushed the project into the new year, with the equipment now ready to go. "It will be put to the test this summer," Taube says. ■

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Case Notes

OLD ALTERATIONS, NEW HEADACHES

By Andrew P. Brucker

131 Perry St. Apt. Corp. v. Clauser



SHUTTERSTOCK/STUNNINGART

THE BACKSTORY

In 1998, the owner of an apartment at 131 Perry St., a co-op in Greenwich Village, replaced the terrace doors in her apartment with custom-made French doors. The board approved the plans, and both parties signed a consent agreement whereby the owner took full responsibility for the integrity of the work and for

whatever maintenance might be required. Most importantly, all future purchasers of her apartment would be bound by this agreement. The consent agreement also said that “no transfer ... of your proprietary lease shall be permitted unless you are in full compliance with this consent.”

Several years later, the apartment was sold to Mr. Clauser. In

2021, during a heavy rainstorm, water penetrated the terrace doors and caused flooding in the apartment below. The co-op’s architect inspected the doors and found them to be in a severe state of disrepair and in need of extensive maintenance.

Mr. Clauser claimed that when he purchased the apartment, he knew nothing of the arrangement in the consent agreement, nor did he sign anything with the co-op or the seller assuming any obligation for the doors. The co-op, on the other hand, claimed that he was responsible for the long-term maintenance and integrity of the doors, and sued him to pay for all repairs.

THE COURT RULING

Since there was never a signed agreement between him and the previous shareholder who did the alteration, the court said he was not liable for the damage or the repairs. Additionally, the court noted that the co-op could have stopped the transfer of shares until he signed an agreement to be responsible for the doors, yet did not do so.

Interestingly, Mr. Clauser learned of the agreement between the prior owner and the co-op approximately a year after he purchased the apartment, and may have even paid for some minor repairs. But the court held that this was not enough to hold him liable,

Andrew P. Brucker is a partner at the law firm Armstrong Teasdale. The statements and views in this article are his own and not necessarily those of the firm.

again stressing that there was no signed agreement and that a single event (paying for minor repairs) is not enough to modify the proprietary lease or bind him to the prior owner's agreement with the co-op. The suit against Mr. Clauser was dismissed in 2022.

THE LESSON FOR BOARDS

This pattern is fairly common in cooperatives. A shareholder will undertake an alteration, and the alteration agreement with the co-op will state that the shareholder is responsible for the repair and maintenance of the new fixtures,

walls, etc., and that subsequent owners will also be responsible. But decades later, when repairs are required, it turns out there is no agreement in which the new shareholder assumes the obligations under the alteration agreement. To make matters worse, management may not even have a file on this matter, since management often changes over the years.

Unless the proprietary lease has precise language that binds the shareholder, there is little a board can do. Some co-ops require a purchasing shareholder to sign an assumption agreement of the prior

lease as well as executing a proprietary lease. Some agreements include language that says the new shareholder assumes not only the old lease but also any other agreements between the (selling) shareholder and the cooperative. This might be enough to hold the new shareholder responsible for problems with a prior alteration. ■

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ON OUR RADAR

Insights from the Council of New York Cooperatives & Condominiums (CNYC) on pending legislative and regulatory decisions that may affect your building

By Rebecca Poole, Director of Membership & Communication

THE LARGELY UNSEEN AFFORDABILITY CRISIS SIMMERING IN NYC'S CO-OPS & CONDOS

For decades CNYC members and professional subscribers have used our Annual Comparative Study of Operating Costs as a budgeting analysis and expense cutting tool, examining where their co-op or condo's expenses and income differed from that of similarly sized neighboring buildings, and taking action to get to the lowest possible bottom line. But this year the hunt for optimum efficiency is insufficient as boards urgently seek stop-gap measures to maintain financial viability and a semblance of control over their maintenance and common charges given exponential increases in compliance costs, real estate taxes, insurance and capital projects. As we approach the midway point of 2024, boards are searching for new answers in CNYC's data: (1) What are the trends that are making affordability a very real concern for many shareholders and unit owners? (2) Could shareholders, unit-owners, and board members have anticipated these trends and taken pre-emptive action? (3) Is there a way to reverse, stop or slow them?

Our current study, which is based on a collection of 1,000-plus audited financial statements

for the year 2022 shows the following:

- At participating co-op buildings in Manhattan, maintenance for the average unit attributed solely to operating expenses increased by approximately 42% in the ten years from 2012 to 2022. The largest contributors to the increase? Insurance, real estate taxes and administrative costs.
- At participating condominium buildings, common charges for the average unit attributed solely to operating expenses increased by approximately 36.5% over those ten years. This does not address any increase in real estate taxes as they are paid directly by the unit owners, so the largest cost drivers noted were insurance, repairs and maintenance, and administrative costs.

The demonstrated maintenance and common charge increases do not include the hundreds of thousands to millions of dollars cooperatives and condominiums are spending annually on capital projects to ensure compliance with local laws. However, a percent of the impact of the capital work is reflected in the study in the escalation of the average amount borrowed by cooperatives with underlying mortgages. Between 2012 and

2022, the portion of an average Manhattan co-op's underlying mortgage attributable to an individual unit rose from \$39,647 to \$56,399. That represents an average of \$16,752 in additional debt for each shareholder. This is on top of (1) any assessments collected to pay for the capital work and (2) the increases in maintenance.

COULD BOARDS HAVE SEEN THIS COMING? WHAT ABOUT PROSPECTIVE PURCHASERS?

Each year CNYC issues an "On the Money" article highlighting anticipated changes in expenses. Inflation, projected weather and temperatures, rate increases for utilities and water and sewer charges, real estate tax and assessed value increases, and insurance costs are all analyzed. Past and present data and the condition of each building is reviewed carefully by boards and property managers. Yet, ten years ago, or even six years ago, no one could have foreseen the outsized impact that compliance and insurance would have on the cost of being a homeowner in a co-op or condo. Regulations had not yet been introduced for LL152 (Gas Piping Inspections), FISP Cycle 9 (Facade Inspection Safety Program), LL126 (Parking Structure Inspections),

LL97 (Climate Mobilization Act), LL37/08 (Retaining Wall Inspections) or the new Parapet Wall Inspection. Ten years ago, many smaller buildings were still self-managed, able to handle compliance on their own. Today most have sought professional help from management firms. In the recent past insurance rates went up – and sometimes down – based on claims and industry news. Most reputable contractors could easily afford insurance without passing tremendous mark-ups on to their clients. The cost of housing that we are seeing today could not have been projected — not by boards negotiating underlying mortgages and approving purchase applications, not by shareholders and unit-owners handling their own financial planning, and not by prospective purchasers considering if certain co-ops and condos would remain affordable to them in the long term.

CAN FUTURE PROSPECTIVE PURCHASERS BE PROTECTED THROUGH FINANCIAL DISCLOSURE LEGISLATION?

Intro 0438-2024, introduced in February, would require cooperative boards to provide potential purchasers with a list of “any capital improvements underway or planned, and the cost of such improvements,” among other information. Setting aside for a moment the legal repercussions of providing potential purchasers with information that (a) boards are in the process of considering and have not voted on, (b) is therefore not yet appropriate to disclose to shareholders, (c) is unsubstantiated by an accountant or other professional, and (d) can easily change due to unforeseen conditions and events, we will

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focus on the question of whether this would have helped potential purchasers over the past ten years. We think not. The fact is prospective purchasers invested life savings in homes in cooperatives and condominiums, believing that their salaries would keep pace with potential increases in maintenance and common charges, and for many that has not happened. The increase in the cost of owning a home in a NYC co-op or condo has far outstripped increases in salary for many shareholders and unit-owners. This has happened through no fault of boards or property managers and could not have been predicted.

CAN WE BUCK THE TRENDS?

We believe that insurance costs and compliance costs can be controlled, while still ensuring the safety, resilience and “greening” of our buildings and homes. A bill recently introduced in the NYS Senate and Assembly, S.8413A / A.8981, would seek to eliminate fraudulent labor law claims, potentially reducing premiums for contractors and property owners. In turn, the cost of undertaking capital projects could be lessened through reduced passalong fees for insurance procured by

contractors, architects, engineers, and property managers.

Increased incentives and rebates for buildings required to comply with Section 320 of LL97 are a necessity. Penalties and late fees set to tax co-ops and condos can be mitigated by further expanding the good faith effort exemptions and taking into account what work is financially and structurally feasible. Bills such as Intro 0183-2024, Intro 0445-2024, Intro 0503-2024, which would help property owners comply with LL97, LL 37/08 and FISP, respectively, should be considered across all City agencies. Compliance must be made easier and less costly. Draconian penalties might fill City coffers, but should be eliminated when they do not assist with compliance or when they injure co-op and condo homeowners who have already invested heavily in the City. There are glimpses of ways forward — ways we can change the narrative and prevent financial hardships. But if we fail to recognize the affordability crisis currently simmering in so many NYC cooperatives and condominiums, shareholders and unit-owners of more modest incomes will be forced out of their homes, much to the detriment of the diversity of our city. ■



SHUTTERSTOCK/T. SCHNEIDER

The Bane of Short-Term Rentals

Airbnb and other short-term rentals have been a thorn in the side of many co-op and some condo boards. The city's registration law should help, but your governing docs may need amending first.

Local Law 18, also known as the short-term rental registration law, came into force last September and affects three things: the hosting platform itself, like Airbnb or Vrbo; the individual who is renting out his or her apartment; and the building owner, including co-ops and condos. Boards that want a complete ban on all short-term rentals can now apply to register

their buildings on the city's prohibited building list by filling out an application online. But in order to get on the list, there has to be some provision in your governing documents that specifically prohibits short-term rentals.

Most buildings don't have that in their documents. The proprietary lease in co-ops or the bylaws in condominiums probably only touch upon the

issue in the general sense of a guest policy, but not specifically short-term rentals, which is 30 days or less. So what we're recommending is that boards pass a house rule that expressly prohibits them. It won't affect guest policies like your mom and dad visiting for the week, but it will stop short-term rentals that someone is clearly using for another means of income. After that, you



Scott Smiler

Partner,
Gallet Dreyer & Berkey

can propose the more authoritative step of amending your governing documents at the next annual meeting.

If the board changes the house rules and someone continues to list their apartment on a hosting platform, you can report it to the city’s Office of Special Enforcement (OSE). There are penalties involved, ranging from \$100 to \$5,000. It’s more complicated if the shareholder or unit-owner registered their apartment with OSE and posted their ad online, and then a month later the board comes in and says, “We just got on the prohibited building list. You have to remove it.” The board would have to file a complaint and attend a hearing to plead its case as to why its getting on the prohibited building list should trump the host’s initial registration. It’s a new learning experience, and we’re all working our way through it. But the takeaway is clear: If your governing documents are missing a prohibition on short-term rentals, now is the time to start drafting the language and putting things in place. ■

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ASSESSMENTS: DEALING WITH THE INEVITABLE

At some point, every board is faced with the question of imposing an assessment to pay for major capital repairs. It's not a decision that can be made lightly.

By Paula Chin

It's something that boards, shareholders and unit-owners all dread: assessments. While careful budgeting can help minimize the need for them, the city's ever-increasing requirements often cost huge sums and send many boards back to the assessment table. Whether it's a relatively small add-on to monthly fees, or large amounts needed in short order, assessment planning is key.

Here's a four-part primer on what you need to know.

SHUTTERSTOCK/ALPHAVECTOR

Assessment Rights

Whenever boards ask for more funding, there is a risk that shareholders or unit-owners will disagree with a project's necessity and attempt to block the project or assessment. Generally, however, a co-op's bylaws or a condo's declaration empowers boards to impose an assessment for a particular purpose, which can be done with a board resolution. As long as an assessment is reasonable, boards are protected by the business judgment rule in the event that a shareholder or unit-owner takes them to court.

While assessments are a handy financial tool, they tend to be more frequent in condominiums because of loan restrictions. "There are typically limits on the amount condo boards can borrow without majority or supermajority unit-owner consent," explains Dennis DePaola, the chief legal officer at the management firm First Service Corp.



MATT LICARI

Taking a pass: President Alex Moir and fellow board member Alexandra Pappas at 227 E. 57th St., which chose not to offer a discount for upfront payments.

"That gives them one less arrow in their quiver to fund capital needs without an assessment."

Assessment Duration

The life cycle of an assessment begins with a board creating a budget for a capital

improvement, and then a timeline for financing and project completion. If a project is expected to take a year, the assessment may be in place over that same time period.

Determining the total amount of the assessment depends on the cost of the

project and whether it can be partially funded by your reserves or a loan. The amount is then divided among shareholders or unit-owners based on the number of shares for each apartment or its percentage of common interest. For example, if a 125-unit co-op that has a total of 50,000 shares imposes a \$1 million assessment, the amount assessed to each share would be \$20 (\$1 million divided by 50,000). A person who owns 1,000 shares would be assessed \$20,000, determined by multiplying 1,000 by \$20.

AS LONG AS AN ASSESSMENT IS REASONABLE, BOARDS ARE PROTECTED BY THE BUSINESS JUDGMENT RULE IF A SHAREHOLDER OR UNIT-OWNER TAKES THEM TO COURT

If the assessment were for two years, the shareholder would owe about \$833 per month (\$20,000 divided by 24).

Assessments are typically paid in equal installments during the period of the loan. As for how long

the assessment will last, it depends in part on how soon the money is needed and the financial strength of the building's population. "We're seeing a lot of boards extend the length of their assessments from one or two years



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Easing the burden: Matthew Liss and fellow board members at 37 W. 12th St. spread out the building's assessment over three years.

to three or even five years,” DePaola says. “By spreading it out, the monthly amount is much lower, enabling people who would otherwise not be able to make the payments.”

But even when assessments are a heavy burden on

residents, boards sometimes have to make the tough call. That was the case at Blossom Gardens, a 186-unit co-op at 134-30 Franklin Ave. in Flushing, Queens, that was hit with a punishing insurance premium increase after

a four-alarm fire that damaged 20 apartments. “The insurance covered our \$3.4 million claim, but the premium went up from \$130,000 to \$750,000, so the board imposed a one-year \$800,000 assessment to cover that,” says Vik Shingwani, a property manager at First Management Corp. who oversees the building. “This is obviously not a wealthy building, and the board knew it would be

LORENZO CINIGLIO



hard on shareholders. In fact, a few people have had to sell their apartments. It's heartbreaking.”

Butterfield House, a high-end 103-unit co-op at 37 W. 12th St. in Greenwich Village, didn't have the problem of cash-strapped shareholders, but it still decided to spread its \$1.3 million assessment over three years after it was hit with high costs for upgrading its AC system by making a partial switch to electrification to comply with LL97. “We originally thought the project would be \$1 million, but it went up because we don't have the electrical



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capacity, and increasing it is approximately 50% of the total cost,” says Matthew Liss, the board president.

While the current equipment still has several years of useful life, the board thought it prudent to tackle the upgrade now and avoid higher costs later — and reap the benefits of energy

and there are people with deep pockets. A 66-unit co-op in the West Village that needs to raise more than \$7 million in cash for urgent facade repairs is taking that approach. The building, which recently started a 12-month \$8 million assessment — an average of about \$100,000 per apartment — is offering a 6% discount

repairs. “We didn’t have to put \$800,000 upfront because we were able to work with our vendor and pay for portions of the job as each stage was completed,” says Alex Moir, the board president. “We did discuss a discount for upfront payments, but nobody could agree on what was a fair discount amount. It was just easier to have everybody pay the same way.”

OFFERING A DISCOUNT TO OWNERS FOR PAYING THEIR ENTIRE SHARE OF AN ASSESSMENT UPFRONT CAN BE AN EFFECTIVE STRATEGY IF FUNDS ARE NEEDED RIGHT AWAY

Complications

Indeed, offering discounts for early payments can lead to complications, especially when capital projects are being financed with both a loan and an assessment. While loans can bring down costs for shareholders and unit-owners, the loan interest is factored into the assessment, and calculating the reduced interest for those who pay ahead of schedule can get tricky. “If someone pays half of a \$20,000 one-year assessment early and the remaining \$10,000 in monthly installments, the board would have to deduct the loan percentage for first half \$10,000 but include it for the second half,” says Mohammed Salyani, a principal at the accounting firm WilkinGuttenplan. “You have to do the math and keep track of who’s doing what. That can be an accounting nightmare.”

Apartment sales can pose another challenge for boards. The assessment language

efficiency sooner. “We have been diligently putting aside money and could pay for everything with our reserves, but we don’t want to deplete them in case of emergency,” Liss says. “And this isn’t the environment to refinance, because of interest rates. So we’re using a combination of a longer assessment and the 2% transfer fees we collect from apartment sales.”

To Discount or Not

As for payment structure, boards can choose to offer a discount to people who pay their entire assessment upfront in a lump sum or in larger periodic installments, which can be an effective strategy if money is needed immediately

to shareholders who pay their entire sum upfront. “We’ve already spent \$800,000 out of our reserves and can’t afford any more,” a board member explains. “We have people with combined apartments who can pay upfront, and we’re going to need that cash earlier rather than later.”

A co-op at 227 E. 57th St. in Manhattan’s Midtown East neighborhood decided not to offer a discount because it wasn’t facing a money crunch for its latest capital project. After a LL152 gas inspection at the 21-story, 110-unit building revealed leaks in the main gas branch line and three risers, the board imposed a two-year \$800,000 assessment to cover the

should be clear about whether the seller's balance on the assessment is due immediately upon sale or if there's an option for an agreement between seller and purchaser in which the purchaser assumes the balance and pays it in monthly installments going forward. "If it's the former, the full remaining assessment amount would be collected upon the transfer of the stock or unit," DiPaolo explains. "If the latter, it should be referenced in the minutes that the assessment is payable by the purchaser and in the transfer documents between the

purchaser and seller."

Even with safeguards in place, boards can get caught short when a shareholder or unit-owner dies and the estate stops paying the monthly assessments, which are still collectible, just like maintenance or common charges. One 37-unit prewar co-op on the Upper West Side ran into that problem in 2022 after a shareholder died while the building was in the middle of a three-year assessment. "We had put a \$1.5 million assessment in place for 36 months to pay for facade repairs and

replacing our freight elevator, but haven't received maintenance or assessment payments from the estate for two years," the board president explains. "We're now missing \$100,000, which is a huge chunk of money." The apartment, which has been vacant, is finally being prepared to go on the market. "Fortunately, there's no mortgage, so under our proprietary lease, we have a de facto lien on all unpaid charges," the board president adds. "So we are first in line when the sale closes. We will recoup everything." ■

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SE GENCY

By Paula Chin and Emily Myers

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Building disasters may be rare, but they do happen. Fires, structural issues and other major events that require residents to vacate can wreak havoc on the lives of residents and your building's budget. While it's not possible to prevent these kinds of disasters, industry professionals point to three actions that can help.

Instant Notification

Whether it's a fire, a structural issue or another type of emergency, communication is key. This is the time to immediately reach out to all residents via phone, text or email, and this contact information needs to be readily available. When Andy Marks, an executive vice president at the property management firm Maxwell Kates, was notified by the Department of Buildings that he had five days to clear a 26-unit Manhattan condo because its bearing walls were leaning alarmingly

— at some points 30 inches off the vertical — he immediately worked with the board to convene a Zoom meeting with unit-owners. “We explained how we would orchestrate the evacuation, given there was only one elevator, and that we had contacted hotels within a five-block radius and made deals to get a bulk rate,” he says. “In an emergency like this, when people are in hardship, an instantaneous response is critical.”

Living Expenses for Those Who Vacate

Depending on the disaster, some or all of a building's residents might have to vacate. This, in turn, raises the question of who will be paying the living expenses of those who have to leave.

When shareholders or unit-owners have insurance for their apartments, that typically includes coverage for the cost of alternate accommodations due to loss of use. “However, that only applies to certain causes of loss, like fire or a gas or water line break,” explains Jason Schiciano, a co-president of the insurance firm Levitt-Fuirst. “Structural damage due to a building's age isn't covered.”

When residents are displaced because structural deterioration has rendered their apartments dangerous, the co-op could be liable for breaching the warranty of habitability. To head off a potential lawsuit, consider paying the rental costs of those who have to move elsewhere. Doing so, says Leni Morrison

Cummins, a partner at the law firm Cozen O'Connor, “is probably not so much a kind gesture but a recognition of potential liability.” Boards, she adds, should therefore require shareholders to sign a release in exchange for payment “because without it, they could remain liable for additional damages incurred by the displacement.” If your building's property insurance doesn't cover additional living expenses for such payments, you can pass along the expense to shareholders or unit-owners, either in increased maintenance or an assessment.

Paying Your Bills

Proprietary leases and bylaws typically allow for shareholders and unit-owners to forgo paying

**RESIDENTS'
PHONE
NUMBERS
AND EMAIL
ADDRESSES
NEED TO BE
AVAILABLE
FOR THEIR
SAFETY'S
SAKE**

maintenance and common charges when a casualty event forces them to move out of their apartments, which can put a huge dent in a

building's revenue stream.

But there is a way to lessen the blow — securing a mortgage forbearance with your lender. “You present the financial hardships you’re facing, from the loss of income to the cost of major repairs, and negotiate the terms, which might be a complete pause on payments or a reduction in the monthly amount,” says Carl Cesarano, a principal at the accounting firm Cesarano & Khan. The length of the forbearance period can vary from a few months to a year. “After that, you will need to repay the missed amounts,” he says. “That might involve a lump-sum payment, an

increase in monthly payments for a set period or extending the term of the mortgage.” Co-ops and condos that file claims for a casualty event such as fire have another option, since some insurance carriers are willing to provide an advance payment on lost income so that the building won’t have to do without the income for an extensive period of time.

“You need to be prepared for the emergency you hope will never happen,” says Michael Wolfe, the treasurer of the Council of New York Cooperatives & Condominiums and chair of the Real Estate Board of New York’s

Residential Management Council. One way to do that is to learn from the experiences of those who have survived disasters. What follows is how two co-ops — one in Crown Heights and the other in Yonkers — coped.

The Fire This Time

A year after a four-alarm blaze tore through the Mona Lisa co-op at 671 Bronx River Road in Yonkers, the six-story, 95-unit property is still in the midst of rebuilding. Shareholders, who were forced to move out because of the extensive

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damage, are eagerly awaiting the completion of repairs so they can finally return to their homes. In the meantime, the board, which is paying for the reconstruction with a \$19 million insurance settlement, is brainstorming ways to use the setback to its advantage.

Access denied. The source of the blaze was a heat lamp used for growing marijuana in an apartment rented out by the co-op sponsor. The fire destroyed 15 apartments and a portion of the roof. When crews came to assess the building, they found asbestos present, which further complicated the reconstruction. Residents were denied access for safety reasons, but the co-op then became a target for thieves. Slowing the rebuild further, a group of shareholders won a temporary restraining order, stopping work at the building until they could retrieve their personal items.

To break the stalemate, the board worked with its contractor, Franchise Contractor Group, to devise a creative solution. “We arranged a setup in a parking lot trailer where residents were connected to a worker wearing a live webcam so they could direct him to the belongings in their units,” says Keona Serrano, the board president. The items were retrieved, decontaminated and returned to their owners, allowing the asbestos abatement to take place.

Abatement has been completed in the common areas. The roof has been reconstructed, and the brick

facade, compromised by heat damage during the fire, has been reinforced. The repairs are expected to be finished early next spring, thanks in part to special approval from the Department of Buildings for work to take place during

extended hours, from 8 a.m. to 11 p.m. “That will help to expedite the timeline,” Serrano says.

Negotiating a deal. The cost of rebuilding is estimated at \$23 million. With only the \$19 million



LORENZO CINGHIO

Stopgap measure: With displaced residents not paying maintenance, Mona Lisa board president Keona Serrano helped the co-op obtain a forbearance on its mortgage.



insurance payout in hand, the board was able to secure a proceeds agreement with the contractor. “The contract terms will determine what work the contractor is agreeing to perform in return for receiving the insurance proceeds,” explains David L. Berkey, a partner at Gallet Dreyer & Berkey. He does not represent the co-op but says that in these situations, an engineer will advise the board as to whether the proposed work is sufficient to properly restore the building or if additional work is required. Franchise Contractor Group has agreed to deliver the building to residents ready for occupancy.

Because the building’s mechanical systems were not destroyed, the board, working with its management company, is evaluating what energy efficiency upgrades might be possible while the co-op is under construction. Josh Koppel, the president of H.S.C. Management, who took over the management of the Mona Lisa a few months after the fire, is hoping to tap into NYSEDA’s Low-Carbon Pathways Program to fund the improvements. “Maybe we can get upgraded windows, take out the

boiler, or even go geothermal while the building is vacant,” he says.

Money management. The prolonged vacancy, however, is hurting the co-op’s bottom line. With shareholders living elsewhere, maintenance cannot be collected to cover the building’s \$70,000 monthly operating costs. “We are facing a huge deficit,” Serrano says. The co-op was able to secure a forbearance on its mortgage payments until April 2025, which has helped ease the money crunch. But the interest on the loan still needs to be paid each month, not to mention liability insurance for the construction

work. Until recently, these expenses were paid with insurance funds, but Serrano says the building has now “exhausted the loss-of-income insurance monies.”

It is, however, putting the \$19 million settlement to good use in an interest-bearing account, which is generating \$30,000 a month that is going toward the building’s operating expenses. The co-op also managed to get a 46% reduction in property taxes from last July. Additionally, it has imposed a new assessment and is also looking into securing a \$6 million bank loan.

Looking ahead, the Mona Lisa is considering increasing its insurance

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Warning signs: Cracked tiles and tipping wall cabinets revealed major structural issues at the Crown Heights co-op.

coverage as well as urging shareholders to have individual apartment insurance. “It’s nothing we can enforce,” says Serrano, whose personal insurance payout was \$5,000 for additional living expenses. “But we can strongly encourage it.”

On Shaky Ground

First came a third-story shareholder’s concern that her bathroom floor was sinking. Then there were tilting kitchen cabinets and cracked floors in another apartment at the 100-unit prewar co-op in Crown Heights. The problems prompted the board to bring in an engineer toward the end of last year, and after a series of probes, the board received some unsettling news: There was serious structural deterioration in a line of apartments, and shareholders would have to evacuate.

Trouble from top to bottom. Indeed, a central line of five units facing an interior courtyard needs to be demolished and rebuilt to restore the structural integrity of the building. “It’s a building with six floors, so we now have to repair from the basement up,” the co-op’s board president says. Due to the complexity of the project, the co-op has turned to its management company, New Bedford Management, to coordinate all the moving parts — including repairing the foundation, replacing walls and floors, shutting down gas and water lines, negotiating access with residents and rehousing shareholders in the affected apartments.

Repairs to the first-floor apartment — which requires the most work because it has concrete floors and steel beams and is located above the basement — began in

April and are expected to take three to four months. “There are gas lines, plumbing lines and risers under the apartment that need to be protected and shut down,” says Andras Joo, head of owner’s representation at New Bedford. As the work continues up the line of apartments, the construction is expected to speed up. “It’s just opening floors and wood joist repairs, which is lighter construction work,” he explains.

Financial aid. The co-op, which has a mix of one- and two-bedroom units and a diverse population ranging from seniors to young families, recently increased maintenance to help pay for facade and parapet repairs and a full roof replacement. The board had planned to simply waive maintenance for the shareholders who are being forced to move out, which is mandated by the proprietary lease. But noting the high rents in the area, the board decided to go a step further by setting aside \$25,000 to fully subsidize the rent for the displaced shareholders. Still, finding appropriate rentals to meet their needs has been a challenge. “Everyone wants a similar location, some people have multiple children, some want furnished apartments,” Joo says. “Vacating people is always the most sensitive part.”

In the meantime, Albert Delija, New Bedford’s lead owner’s representative for the co-op, has his hands full coordinating the extensive work with the residents who remain. “It’s like conducting an orchestra,” says Delija, who is on-site to monitor and track progress and to ensure that shareholder and co-op property is protected. “Managing shareholder expectations and involving them in some aspects of the project planning so they feel heard and accommodated is key.”

What lies ahead. The construction work, which is expected to be completed by the fall, and the

CONSIDER PAYING RENT FOR DISPLACED RESIDENTS TO AVOID BREACHING THE WARRANTY OF HABITABILITY

additional \$25,000 in rental costs are being paid for by an assessment over the next three years. “We are stretching it out so the impact is not as bad,” the building’s board president says.

The goal is to keep the repairs below \$200,000, but since the work is based on inspections of

only a small fraction of the joists, more structural issues — hopefully not catastrophic — might still be uncovered. “We know there are foundations that need to be addressed,” Joo says. “But we won’t know the exact extent of it until the floor and ceilings are opened up.” ■

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ANIMAL C

IF YOU DON'T HAVE A CLEAR, CAREFULLY CRAFTED PET POLICY IN PLACE, PROBLEMS CAN COME BACK TO BITE YOU.

BY PAULA CHIN

When it comes to dealing with the different interests of your building's shareholders or unit-owners, balancing the needs of pet owners and their non-pet neighbors is one of the most contentious. Boards can set their own policy, whether pro or con, but the trend is definitely in the animals' favor: There are an estimated 1.1 million dogs and cats in New York City — and that's not including the pandemic boom in ownership.



CONTROL

Some buildings remain problem-free without a pet policy, while others keep the peace by requiring owners to sign a simple agreement regarding their responsibilities. But these days, whether large or small, co-ops and condos would do well to have a formal policy in place — outside of what the law requires for service and emotional support animals. “There’s no question we’re seeing more and more pets allowed, which has become an important amenity at many buildings,” says Stewart Wurtzel, a partner at the law firm Tane Waterman

& Wurtzel, adding that a clear, well-defined pet policy is your best defense against messy disputes. “But it has to be carefully crafted,” he says.

WHERE A PET POLICY LIVES

At some co-ops, a simple sentence on whether pets are allowed is already in the proprietary lease; at condos, it’s sometimes in the bylaws. But those are the exceptions. At most buildings, existing policies are in the house rules — and should stay there. “The pet rules should never

SHUTTERSTOCK/GOODFOCUSED

be in the proprietary lease or bylaws as those require a supermajority owners vote to change and amend,” says Theresa Racht, the principal at Theresa Racht Esq, PLLC. “Pet rules are something that need to be regulated by the board and easily changed by the board.”

Even when an existing pet clause is in the proprietary lease, “for all practical purposes, it can be amended by boards in the house rules,” explains Dean Roberts, a member at the law firm Norris McLaughlin, adding that the same applies to policies in the occupancy agreements at Mitchell-Lama and limited equity co-ops.

DRAFTING THE RULES

If you’re creating a new policy, there are two options: start from scratch and tailor it to your building, or have your managing agent obtain policies that have worked well at other co-ops or condos and use them as a template. Every policy should include the number and types of pets allowed; with dogs, you can also specify sizes and breeds. Canines and felines aside, think twice before allowing rodents like gerbils and hamsters, which can wreak havoc if they escape their cages, or certain reptiles that eat live crickets or mice. “I’ve had buildings, including one high-end co-op, where crickets escaped, reproduced in the walls, and an exterminator had to come in,” Racht says. “That isn’t something boards would know about.”

EMOTIONAL SUPPORT ANIMALS

There’s no need to include service and emotional support animals (ESAs) in your policy or have a separate policy for them, since New York City’s anti-discrimination laws require residential buildings to allow ESAs as a reasonable accommodation for people who rely on them. However, they must provide medical documentation or a letter from a qualified service provider, which your managing agent can verify. Boards should also make sure to answer requests for ESAs promptly, since delays can be interpreted as

a “no” and lead to complaints being filed with the NYC Commission on Human Rights (CCHR).

For her part, Racht says that by including any specific reference to ESAs, “you’re just kind of opening the door to problems. You’re planting a seed in people’s minds for sneaking in a dog even if they don’t need one.” However, she says she doesn’t think it’s a bad idea to attach your pet policy to purchase applications for potential buyers as a proactive move. “I’ve had more than one building that includes it

**CREATE A PET POLICY
FROM SCRATCH OR
HAVE YOUR MANAGING
AGENT OBTAIN ONES
THAT HAVE WORKED AT
OTHER BUILDINGS**



in the application package and requires a signed statement that they've reviewed it and agree to comply," she says, adding that some co-ops and condos even require prospective buyers to bring their animals to their interview with the board. "It sounds like overkill, but it's not."

PET PEEVES

Whether a pet or an ESA, all animals have to conform to the same rules, which means you need to create a set of guidelines on acceptable behavior and how you're going to enforce your pet policy when people violate them. Those rules can include requiring that dogs be leashed in common areas, prohibiting them from defecating on the property and sidewalk, and making pet owners responsible for any damage caused to other residents.

Nuisance issues like odors and chronic barking are generally covered under the habitability clauses in proprietary leases or in condo house rules. "If there is a crisis, like someone's pit bull causing a reign of terror by running up and down the hallway or scaring people in the elevator, you'll have a framework to operate from," Roberts says.

When accommodating ESAs, there can be unexpected wrinkles. "I'm dealing with a very interesting battle right now where a shareholder brought a support animal to the laundry room and put it up on the table while sitting and waiting,

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and somebody else who was very allergic to dogs had a bad reaction,” Roberts says, adding that he expects to see more of these “clash of rights” issues. In this case, he adds, “a solution would be allowing the owner to bring her support animal, but solely for going in and out of the laundry room. There’s no staying in there to fold or sort your clothes or anything like that.” (For another clash of rights issue — this one between an ESA owner and a condo board — see below).

Carl Finger, a partner at the law firm Finger & Finger, recently represented a condo that also confronted a canine ESA problem. “The unit-owner was walking his ESA in an area where children commonly played, and people weren’t

happy about it,” he says. When the person was asked to walk the dog elsewhere, he filed a complaint with the CCHR. “We argued that the unit-owner didn’t require an accommodation for walking the dog in the play area, and the board had good documentation of the situation,” Finger says. “The complaint was dismissed.”

REPORTING ANIMAL ISSUES

Indeed, whether it’s a squawking bird or a dog barking nonstop, buildings need to establish a clear protocol on how shareholders, unit-owners and staff should report animal issues — and how board members should deal with them. When someone is aware of a pet or emotional support

BOARD V. DOG: A TANGLED ESA STANDOFF

BY JOHN W. EGAN AND
INGRID C. MANEVITZ


Housing providers, including co-ops and condos, have a legal obligation to provide reasonable accommodations to residents with disabilities, which includes permitting them to live with emotional support animals (ESAs). But boards that prohibit pets or

have specific restrictions on what kind are allowed often face a Catch-22: On one hand, imposing limitations may invite a lawsuit or a complaint to a civil rights agency, and on the other, allowing ESAs may encourage abuse. The New Jersey Supreme Court’s

decision in *Players Place Condominium Assn. Inc. v. K.P.* illustrates the dangers of taking an overly strident approach to restricting ESAs, and the importance of engaging in a good faith dialogue with residents who request accommodations.



SHUTTERSTOCK/SAVITSKAYA IRYNA



animal that's in violation of the building's pet policy, the first step is notifying the board. It's critical to get verification from multiple neighbors and have them keep a detailed record of every incident. The board or its management company can then write a letter to the owner including that documentation to see if the problem can be solved without legal action, which often works.

"We were involved in a resolution where a dog actually bit a few people, but after a reasoned discussion, the shareholder agreed to remove the animal," Finger says. "In other cases, we've seen people start using a muzzle. We've even had

The details. Players Place had a rule limiting pets to "the small domestic variety weighing thirty (30) pounds or less at maturity." The unit-owner, K.P., informed the association that his girlfriend, B.F., was considering adopting an ESA dog that would likely exceed 30 pounds and asked what medical documentation would be needed. Three days after making the request — and without receiving a response — B.F. adopted the ESA, Luna, to live in the apartment.

The association responded days later, stating that it "will not and cannot accommodate any alleged disability in regard to a dog that weighs in excess of 30 lbs." K.P. responded that B.F. was moving in with him, along with Luna, and attached a letter from B.F.'s health care provider, who indicated that B.F.

"suffers from mood and anxiety disorder" and "would benefit" from having an ESA. The association responded that it would commence an action barring a dog over 30 pounds. K.P. then advised the association's attorney that ESAs are not considered pets under the law. A few months later, after the association's board president spotted Luna in a building common area, the association commenced an action to remove the dog. B.F. and K.P. counterclaimed for disability discrimination.

The decision. Following a trial, the court allowed B.F. to keep Luna, citing the health-related benefits to B.F. and the lack of disruption caused by the dog. The board appealed. The appeals court ruled that there was a valid basis to allow Luna to remain in the apartment on equitable

grounds, but also held that B.F. failed to demonstrate her discrimination claims. The case was appealed to the Supreme Court of New Jersey, which clarified the legal standards for housing accommodations in this context and remanded the case for a new trial.

The takeaway. After nearly six years of litigation, Players Place is now back to square one in having to try the case again. It's a cautionary tale for all boards, including those in New York City, and offers some valuable lessons. One is the importance of requesting information about a resident's disability-related needs early in the process,

SHUTTER STOCK/SNIRMI977

some owners who agreed to dog training at their own expense.”

If violators refuse to cooperate after receiving several notices, co-op boards can impose escalating fines before sending a notice of default under the proprietary lease. If the problem isn’t cured within 30 days, you can threaten eviction.

“But that’s not an option at condos, where people own their units and there’s no way a board can terminate the lease,” says Steven Sladkus, a partner at the law firm Schwartz Sladkus Reich Greenberg Atlas. “The condo may have to sue for an injunction, which you obviously don’t want to do if you can avoid it. It’s always best to try to resolve things amicably.”

SPREADING THE WORD

Whatever policy you create, share it with management, and have your attorney review the document before distributing to shareholders or unit-owners to make sure there are no legal mistakes that could lead to messy disputes or land you in court. “I also recommend that buildings recirculate it once a year just to remind people,” Racht says. And once the rules are in place, they have to be applied and enforced equitably in every case. But even the most comprehensive policy can’t anticipate every flashpoint that might erupt. “There’s no way to predict them all, so the policy is always a work in progress,” Roberts says. “Still, the more detail, the better. Too many rules are rarely a problem.” ■

which may make boards less inclined to commence litigation to remove an ESA. Whether a resident is “disabled” is usually not worth fighting over. The court in *Players Place* noted that the definition of “disability” is broader under New Jersey law and includes “any mental, psychological, or developmental disability” that is demonstrable, medically or psychologically, by accepted clinical techniques. (By comparison, federal law limits the definition to conditions that substantially limit a major life activity.)

Similarly, the New York City Human Rights Law (NYCHRL) defines “disability” broadly to mean “any physical, medical, mental or psychological impairment.” As a result, co-ops and condos in New York City may have an uphill battle in arguing that residents

requesting accommodation are not disabled, so long as they make a minimal showing. Instead, boards should focus on what is being requested, how that relates to a qualifying medical condition, and the burdens the accommodation would present for the building, including other residents. They need to be flexible with respect to rules, policies and procedures that would amount to a reasonable accommodation. When residents request permission for an ESA after the animal moves in, boards still must consider the request in good faith, even if that runs contrary to their rules.

The court in *Players Place* also determined that the housing provider had the ultimate burden to show that the requested accommodation was unreasonable. New York City law states

that housing providers have this burden. The court also held that the law does not require a prescription or a recommendation from a health care provider for an ESA. The upshot for housing providers in New York is that they need to have rational, well-supported and objective reasons, preferably addressing the impact of the accommodation on residents, in order to deny a request. Additionally, the NYCHRL requires that boards communicate their decision in writing.

Boards need to have a good faith dialogue with residents requesting accommodation and not prejudice the outcome. In *Players Place*, that discussion did not happen.

John W. Egan and Ingrid C. Manevitz are partners at the law firm Seyfarth Shaw.

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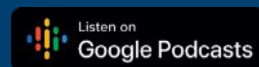
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Problem Solved

THE PROBLEM:

Too Early for So Many Leaks

At newer-generation buildings, construction issues are cropping up sooner than they should be.

Stephen Varone, President,
RAND Engineering & Architecture

Robert Krupp, Project Engineer,
RAND Engineering & Architecture



Below standard: The parapet had cracked, spalled and shifted (left), which was remedied by installing a through-wall waterproofing system along the parapet base (right).

Often in middle age, say between 40 and 50 years, a building will develop parapet roof leaks. But increasingly, more recent constructions are suffering from serious — and potentially dangerous — problems much earlier than might be expected. That was the case at one Gen Z condominium built some 20 years ago after a facade inspection revealed vertical cracks in the parapet wall and in the openings between the masonry. “It wasn’t just atypical

for the age of the building,” says Varone. “The building was actually flagged as unsafe.”

To determine the cause of the leaks, probes were conducted in some of the walls. This building had cavity walls, which have a space between the external face of the facade and the interior, finished side and require proper waterproofing so that the masonry isn’t porous. At this condominium, “it wasn’t done in a way that was comprehensive, as if someone

didn’t truly understand the way water flowed,” Krupp says.

Unfortunately, such defects are not uncommon in newer-generation buildings. “They aren’t necessarily built the way that they were designed on paper due to lack of proper oversight during the process,” Varone explains. “Or something can be code compliant while not considering the relatively short life span of products like caulking and certain coatings.” Too often, he adds, developers are not thinking

long term, knowing that as an LLC, their liability for any problems ends after a few years. Instead, developers often focus on preventing leaks and other problems from cropping up only until the units

week or even 10 or 20 hours a week to ensure that nothing falls through the cracks.”

At the condominium in question, both the waterproofing materials and installation fell short of the

some of the floors.

The condo, however, could not afford removing and replacing the parapets on the entire building. So instead of addressing all the leaks, the board opted for prioritized, incremental repairs. “We’re attacking the most chronic and disruptive leaks — the ones that cause problems every single time there’s precipitation,” Varone says. “That way, we just have less severe leaks at fewer locations. It’s gone from a critical problem to more of a nuisance that will just have to be attacked over time.”

The takeaway? Whether you’re in a new building or an old one, if you find a problem, it doesn’t have to be fixed all at once. “If money were no object, yes, we would do everything immediately at all times,” Varone says. But that’s not often the case, which means boards have to balance ideal, immediate repair scenarios with financial and practical realities. “You also have to plan them in as responsible a manner as you can for upcoming FISP cycles,” he adds. “At minimum, you need to get to a place where nothing is going to become unsafe between this report and the next report.”

To do that, boards need to have a long-term schedule for repairs and maintenance, including a capital reserve analysis to ensure funds are available for the future. That includes factoring in soft costs, including scaffolding, permitting, special inspections and site safety, which can be enormous. “It’s all about planning, and making a best-case scenario in light of the problems you’re facing and minimizing the remaining ones,” Varone says. “That’s how to achieve success with a real-world approach.”

— Paula Chin

are sold and it becomes someone else’s problem. “While existing buildings undergo rigorous periodic inspections to check for deterioration, the inspection and oversight process required for new construction is, frankly, less rigorous than it should be,” Varone says. “There are special inspection requirements for many specific components, like for masonry ties, but a lack of mandated general oversight by the design team. There’s no requirement that the architect that designed the building be there 40 hours a

mark. “When we were initially brought in, we had been alerted to a number of leaks throughout the building. They were almost systemic, and no one could really make any rhyme or reason for it,” Krupp explains. “We’d find an opening or a crack at, say, the eighth floor, but someone would be experiencing a leak at the sixth floor.” The probes eventually revealed that cheap waterproofing materials had been used, applied only behind the brick without a filler to help bridge the gaps, and were actually missing on



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Problem Solved

THE PROBLEM:

Short on Space

Lobby renovations need to make the most of the existing square footage — and of original, eye-pleasing design elements.

Jonathan Baron,
President,
Jonathan Baron Design



A practical solution for a small lobby: Deeper mailboxes were installed by expanding an existing wall into the floor area.

The lobby at 170 E. 88th St., a five-story, 39-unit co-op built in 1980, was in need of some serious remodeling. The carpeting was dingy, the mailboxes were too small and it needed an expanded package storage area. “The main challenge was carving out space, since this is

a very narrow lobby,” Baron says. The other challenge: When buildings install new mailboxes, the U.S. Postal Service requires them to put in 4C mailboxes, which are 7 inches deep by 15 inches wide, much larger than the existing 5-by-5-inch ones at the co-op. “These new mailboxes automatically come with

a parcel locker for every 10 mailboxes,” he says. “To accommodate all this, we had to build out a cabinet wall where the mailboxes and lockers could be mounted by capturing room from the lobby space.”

Like many co-ops and condos, the building’s lobby was deluged by deliveries. Because

there wasn't enough space to carve out a dedicated package room, Baron installed a storage closet within the cabinet wall to the right of the mailboxes. To have the door blend seamlessly with the wall, Baron outfitted it with a disappearing handle that pops out when tapped. Keeping an "original, built-in look" was important. An existing bench was remodeled with the same stained wood as the wall, and a large mirror was left behind the bench to visually expand the width of the lobby. "And we created a whole new ambience by changing all the lobby's recessed ceiling lights to energy-efficient LED lights," Baron says.

The drab carpeting was replaced with porcelain tiles. "Lobby floors take a lot of abuse, and porcelain is both durable and easy to clean," he explains. The tiles are smooth to the eye, but they have a slip-resistant texture that meets the safety standards set by the American Society for Testing and Materials. As for color, Baron chose a dark shade with a subtle pattern to match the overall visual palette of the building.

To match the lobby renovation, the hallway also got a makeover. The floor was covered with commercial-grade broadloom carpet with a subtle gray pattern, which would help to hide soils and stains. The walls were covered with a commercial-grade, fire-rated wall covering in a lighter shade with a simple embossed pattern, and the doors and door frames were painted a darker shade of gray to hide dirt and smudges. "This isn't a prewar building but a modern one," Baron says. "The remodeling is in keeping with its contemporary aesthetic."

—P.C.

HABITAT

week by week

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TAKING CHARGE

DAVID HALES

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BY PAULA CHIN

David Hales has found the perfect place to call home at his Yorkville co-op. After earning a bachelor's in classics and philosophy from the University of Southern California, the Los Angeles native moved to New York for his career as a consultant in international public health. Focusing on nutrition and the global HIV epidemic, he has worked for UNICEF and various government organizations, which has often taken him abroad. But he still finds time for his duties as board president. Hales spoke with Habitat about the challenges of running a small co-op — and the joys of nesting there.

Hales' comments have been edited and condensed for clarity.



Staying on top: David Hales is happy to keep a handle on things.

Stepping up. After I moved to New York about 30 years ago, I rented an apartment in the West Village but moved uptown because I used to run marathons and being close to Central Park was a big deal for me. I've traveled a huge amount for work, so I was just looking for a small, manageable place to park myself.

This building has just 22 apartments, all of them studios, and I liked the easygoing, informal vibe. About two years after I joined the co-op in 2016, one of the board members who lived on the same floor as me asked if I would be interested in joining the board. We have very, very low board turnover — not because

we wouldn't welcome other people but because shareholders who are capable and willing are limited. I became the board president because I was already handling the majority of the work — which I'm happy to do — and it was just easier that way.

Scaffolding headache. As a five-story building, we're not affected by the Facade Inspection & Safety Program, but four years ago we did an assessment of the building envelope and learned that in addition to brickwork, we were going to have to do everything from installing a new roof to installing new windowsills and lintels. Partly because of delays caused by the pandemic, it was a slow, protracted process that took 2 1/2 years. It was a real challenge to both manage the work and keep people happy because there was scaffolding on the front of the building practically the whole time. It was a big bill, about \$400,000 to \$500,000, but what was really upsetting was the cost of the scaffolding bill, which was about \$90,000. It's no wonder boards want to get scaffolding down as soon as possible, because after the first big upcharge, you have to pay a monthly fee.

Delicate balance. To cover the cost of the exterior repairs, we had to refinance our existing mortgage from \$850,000 to \$1.2 million. Without that, there

would have been a significant assessment, but we were able to impose a very modest one, which has carried us through. Boards are always trying to thread the needle to keep their buildings solvent while also having a decent reserve fund. Our reserves are too small, so we compensate by having a line of credit, which we haven't had to tap into so far. We've tried really hard to keep maintenance increases manageable. We've had property management companies that said we have to raise maintenance 5% a year regardless of the building's economic situation, but we were never comfortable with that. Our increases have been below inflation overall, and we've had years where there were none at all.

Luck of the draw. To raise revenue, we instituted a sublet fee. A few years ago, about 60% of our apartments were rented, which was a problem because banks won't lend money to prospective buyers if they see a co-op as a quasi-rental building, which they consider a nonfunctioning one. We also developed an annual sublet lottery, which I think is pretty innovative. There are only a certain number of slots, so it's kept the rental numbers low. We currently have just seven apartments that are sublets.

Performance problem. A couple of years ago, the board decided it

was time to find a new management company, mainly because we didn't feel there was good value for money with the one we had. After a pretty extensive review of the options, we decided to go with one of those newfangled, tech-focused management companies. Its use of technology and their lower fee structure were very appealing. Unfortunately, what we got wasn't what we were promised. The technology didn't work well at all. Communication was a nightmare. People didn't follow up. And their general lack of knowledge about the realities facing small co-ops created endless headaches for the board and shareholders. So earlier this year, we switched again, to Sandberg Management. We pay more now, but we trust the team there and they actually answer their phones.

Realistic expectations. Being the board president at a small co-op presents special challenges. Shareholders think we're supposed to provide a lot of services and don't always understand how that would impact maintenance. They'll say they want a laundry room, but we don't have the space. And because we have a small population to draw from, board members serve long terms. It's a lot of work, but somebody's got to do it. ■

IN MY BUILDING

LEARNING THE ROPES

BY MICHELE CARDELLA

➤ **IN THE DECADE** after I left New York to attend college in California, I was a carefree renter in both states, moving easily and often between leases. This approach worked right through my last sublet here in Manhattan. After I married, my husband and I purchased our Lower Manhattan co-op. I was surprised to learn that the biggest difference in owning wasn't being locked into a 30-year mortgage. It was discovering, as I sat before the board for our interview, that I was entering a new culture.

Unlike renting, the co-op world requires the constant consent of my neighbors. Even seemingly minor changes to the interior of my apartment had to go before the board. I would also be involved, even if only by paying assessments, in issues outside of my front door, such as renovating the lobby and replacing the windows and the furnace. And the elevator.

Since I was planning to stay put for more than a year this time, I would have to learn how to jump into a new way of living.

My parents had been good neighbors, taking in mail, offering rides, lending tools and sugar, but they never had to consult the rest of the block before they repaired the roof or painted the exterior or planted a tree. Then I remembered something else from my childhood that I hadn't thought of for ages: jumping rope. As a kid, I was pretty good at double Dutch, knowing exactly when and how to jump in. I needed to relearn this lesson when it came to navigating co-op life.

I checked in with my new



JEFF MOORES

super for a bit of information about my new neighbors. I pointed out the calm, pleasant woman who greeted me warmly as she led her well-groomed, well-behaved young children through the lobby. “Yeah, she’s nice,” the super told me, “but when it comes to building business, she doesn’t budge an inch.” After observing her casual conversations with neighbors about building business, I knew he was right. And I had learned my first important co-op lesson: It was possible to be both a generous neighbor and a difficult shareholder. My next move would be to increase my involvement in the co-op.

I joined a building committee

and hosted its meetings. At Christmas, I swept pine tree needles out of the elevator after the super left for the holiday and shoveled snow away from the front door until he returned. By spring, I realized that my efforts had put me smack in the middle of the rope, already jumping. I saw that not everyone jumped the same way. A shareholder who lived upstairs reviewed resident renovation plans, another monitored our finances and another helped keep the co-op out of legal trouble. When the woman who had greeted me on my first day used her well-known mixture of bossiness and compassion to organize shareholders on a rotating schedule to provide hot

meals and child care to a grieving family in our building, I knew my husband and I had chosen the right co-op and the right culture.

By our first annual meeting, I hardly remembered the indifferent renter I used to be. While refilling the glasses of the fellow shareholders who were crammed into our apartment, I spoke up about converting our oil-burning furnace to gas and offered to paint over the almost unanimously disliked pink-and-purple elevator doors. I was no longer jumping by myself like a boxer in training, as I did in my renting days. I had become part of a group that jumps at the same time, in different ways. Take that, Rocky Balboa. ■

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Advice



Ask Mary ADVICE FOR BETTER BOARD BEHAVIOR

REFRESHING THE RULES

By Mary Federico

Dear Mary:

We need to update our 25-year-old bylaws, and we're expecting an uphill battle. We don't know if owners will agree to our proposed changes. But it's more than that: Experience tells us that owners may not even read the materials we send them. We need two-thirds of owners to agree to these changes, but we can barely eke out a 50% quorum for routine annual board elections. Any suggestions?

— Quorum-less in Queens

Dear Quorum-less:

Let's break it down. You want owners to read what you're proposing. You want them to understand it. You want them to agree with it. And you want them to act — whatever that process entails. You've identified getting their attention as a particular concern. But each "want" presents its own challenge.

Below are some suggestions. They don't address the content and wording of the bylaw changes; you'll work those out with your

attorney and your fellow board members. Instead, these focus on creating a proposal that owners will be willing to read and consider.

Identify scope. Decisions, decisions. Make comprehensive updates to the bylaws or focus on a few essential changes? The argument for multiple updates is strong: It's hard to get a quorum, so let's do everything at once. Sounds efficient, but will it work in your building? You'll need to explain to shareholders and unit-owners what you want to change — and why. The more there is to explain, the longer and

Mary Federico serves on the board of her 240-unit Upper West Side condominium. Through her consultancy, *Organizational Behavior Strategies*, she helps leaders use behavioral science to improve their organizations.

more complicated your message. And the longer and more complicated your message, the less likely it is that owners will read any of it. So you run the risk of creating the very outcomes you fear. There's no one right solution to this. The key is to make a realistic assessment of what's currently doable in your building.

Create a readable message.

You've identified changes; now you must explain them. This is no trivial matter. Be prepared to devote sufficient time and effort. (You may even want to get professional help.) You should write plainly, in the active voice, at a grade level in the single digits. No legalese! Use charts and bullets, not blocks of text. Include lots of white space.

This isn't condescending. Rather, it allows everyone to grasp the information quickly and easily — which means they will be way more likely to read it all. And because things that are easy to read seem easy to do (and vice versa), owners will also be way more likely to act on what you're proposing.

Keep a tight focus. For each proposed change, present the current situation, what you propose and why. Make sure the "why" is meaningful to the owners themselves. Are you proposing to make the building nonsmoking? Point out that this will address owners' many recent complaints about marijuana smells.

Use multiple channels. Deliver your written proposal in multiple ways. Send via U.S. mail and email. Put it at the front desk, post it on BuildingLink, place a sign in the elevator. And not just once. You'll need to send reminders (and possibly the proposal) multiple times.

Also, don't confine yourselves to written materials. Could board members approach owners one-on-one? Could you have an open house where owners drop by to chat with board members about the proposal? Could you identify "bylaw change ambassadors" — non-board owners who are willing

to advocate for the changes? Make it a full court press!

Make it easy to act. Make sure you have a simple process for owner responses. Include clear instructions with your written proposal and in all your reminders.

Plan ahead, give yourself enough time and try the above suggestions. Good luck! ■

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MANAGEMENT TRANSITIONS

Manhattan: SoHo

Lafayette Studios, 284 Lafayette St.
20-unit co-op. Transition to: All Realty Services (5/1/24)

Queens: Flushing

Garden De Parsons Condominium, 144-38 35th Ave.
32-unit condo. Transition to: All Realty Services (5/1/24)

Nassau: Rockville Centre

Mayfair Apartments Corp., 200 N. Village Ave.
70-unit co-op. Garden complex. Transition to: Alexander Wolf & Co. Inc. (5/1/24)

Westchester: Dobbs Ferry

Village Green Condominiums, 100 Cedar St.
91-unit condo. Garden complex. Transition to: The Ferrara Management Group Inc. (4/1/24)

Westchester: Mount Vernon

Birch Street Cooperative, 40 E. Birch St.
25-unit condo. High-rise. Transition to: The Ferrara Management Group Inc. (4/1/24)

BUILDING LOANS

Manhattan: Chelsea

214 West 17 Apartment Corp. 214 W. 17th St.
12 UNIT CO-OP, 0% UNSOLD SHARES
LOAN: \$2.7 MIL
TERM: 10 YEARS
LINE OF CREDIT: \$250K
BANK: NCB
LOAN OFFICER: M. GOLDSTEIN
BUILDING REP: A. MICHAEL TYLER REALTY CORP.

Bronx: Pelham Parkway

2156 Cruger Avenue Apartment Corp. 2156 Cruger Ave.
72-UNIT CO-OP, 36.1% UNSOLD SHARES
TERM: 70 MONTHS
LINE OF CREDIT: \$500K
BANK: NCB
LOAN OFFICER: E. HOWE
BUILDING REP: HSC MANAGEMENT CORP.

Queens: Flushing

138-15 Franklin Avenue Apartments Corp. 138-15 Franklin Ave.
192-UNIT CO-OP, 3.6% UNSOLD SHARES
LOAN: \$8 MIL
TERM: 5 YEARS
LINE OF CREDIT: \$500K
BANK: NCB
LOAN OFFICER: M. GOLDSTEIN
BUILDING REP: MULLSTONE REALTY LLC

Queens: Jackson Heights

Kamgil House Realty Corp. 77-02 and 10 34th Ave.
95-UNIT CO-OP, 49.5% UNSOLD SHARES
LOAN: \$1.5 MIL
TERM: 10 YEARS
BANK: NCB
LOAN OFFICER: E. HOWE
BUILDING REP: ZUMO MANAGEMENT

Westchester: Bronxville

Pondfield Apartments Inc. 133 Pondfield Road
16-UNIT CO-OP, 0% UNSOLD SHARES
LOAN: \$650K
TERM: 10 YEARS
BANK: NCB
LOAN OFFICER: H. SELIGMAN
BUILDING REP: LIBRETT REAL ESTATE GROUP

To have your item published in a subsequent issue, call (212) 505-2030 ext. 3006, fax (212) 254-6795, or email: lstrauss@habitatmag.com.

Note: In the April issue, First Funding of New York was the mortgage brokerage firm for the loans to The City View Condominium and The Franklin Owners Corp.

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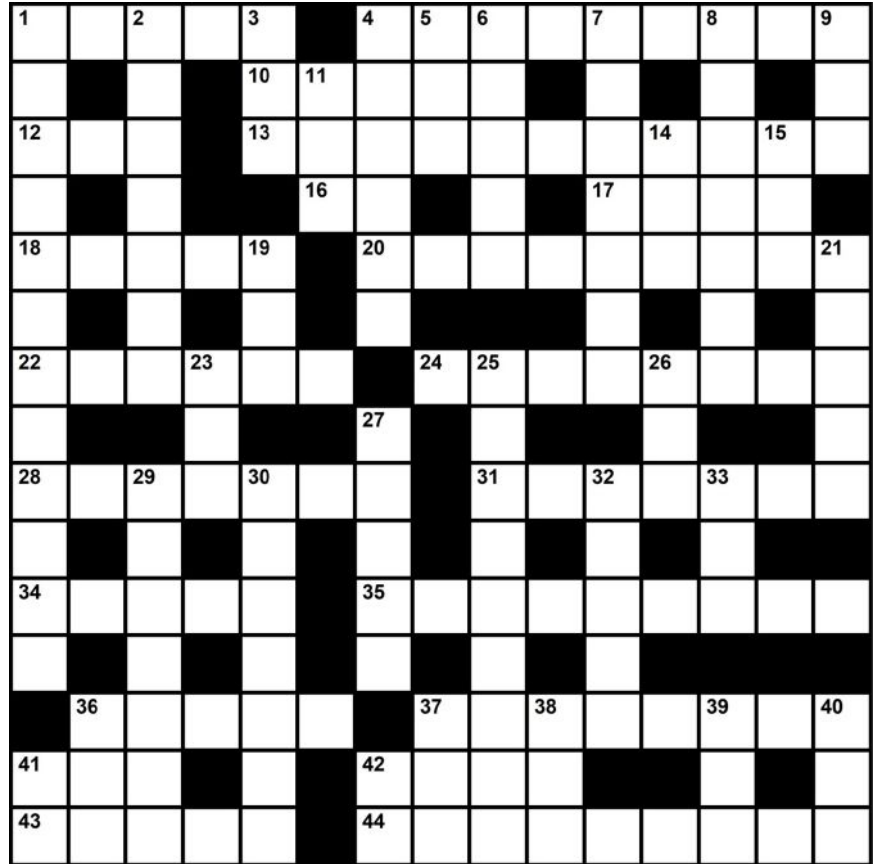
<https://bit.ly/HabIntros>

Crossword

BY MYLES MELLOR

Across

1. Acronym for the group bringing a lawsuit challenging New York's property tax system
4. Rapidly appreciating neighborhood in Brooklyn, 2 words
10. On the ball
12. Crosses (out)
13. What Zillow and Redfin estimate, 2 words
16. Newport's state, abbr.
17. Former late-night comedian who "led with his chin"
18. Exemplary
20. It's used as evidence
22. Make invalid
24. Generosity
28. Golf major location
31. "Butch Cassidy and the Sundance Kid" star
34. Comparable
35. Grammy-winning album by Taylor Swift
36. "Transformers" star, ___ Fox
37. Championship games
41. Pay-___-view
42. Abound
43. Martin who played Clouseau
44. Classic Fonda/Hopper movie, 2 words



Down

1. Former program instituted in 1996 to punish tax delinquents, 3 words
2. Rainy day fund, 2 words
3. Thanksgiving side dish
4. Equality
5. Sanctuary for couples in the Bible
6. Facebook posts
7. Nursery purchase
8. Troubling
9. 12/31, e.g.

11. Armed conflict
14. Deep sleep state
15. Opposing
19. Court cry
21. Traffic sign
23. ___ Dhabi
25. Large terriers
26. "The Lord of the Rings" creature
27. Ashley and Wynonna's mom
29. French cheese
30. Rescue from destruction

32. Gatsby's love
33. Surprised cry
36. Gathered together
37. Samosa legume
38. "Enchanted" actress Adams
39. Passing dietary craze
40. "Dear" one in a business letter
41. Letter postscript
42. Travis Kelce's position, abbr.

For solution to puzzle:
<https://bit.ly/Jun2024Answers>



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& Scott Greenspun**
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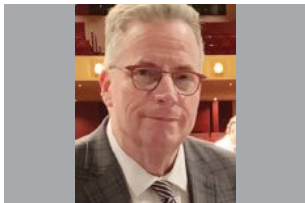
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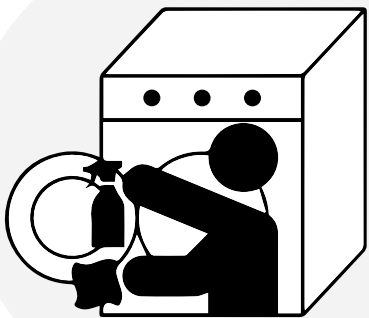
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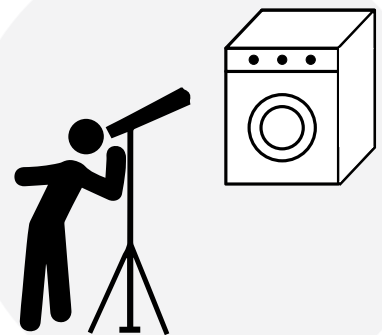
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