

THE RIGHTS OF CO-OP SHAREHOLDERS AND CONDOMINIUM OWNERS

The rights of condominium owners and co-op shareholders are derived from a complex series of laws, regulations and individual building by-laws and other corporate documents. Offerings of condominiums and cooperatives are regulated by the Attorney General under the General Business Law (GBL), a statute designed to protect potential buyers from fraud through detailed disclosure requirements. Once cooperative and condominium plans are declared effective, condominiums fall under the NYS Condominium Act and cooperatives fall under the state's Business Corporation Law – the same statute that regulates the state's major corporations.

Although both of these statutes grant owners and shareholders some rights, their primary thrust is to require that co-ops and condos simply address certain issues in their operating documents: for co-ops, the proprietary lease, house rules, Certificate of Incorporation and by-laws; for condos, the Unit Deed or Declaration, house rules and by-laws of the condominium association.

Among the rights of shareholders and condominium owners under various state and city laws, are:

- * the right to "quiet enjoyment" and peaceful use of the apartment and all public areas and facilities within the co-op or condominium;
- * the right to expect that common areas will be maintained in proper condition, as required under the Real Property Law's "Warranty of Habitability;"
- * the right to receive all services and use all common facilities available to all other owners in a non-discriminatory manner;
- * the right to be charged only the approximate proportionate share of the expenses of the co-op or condominium;
- * the right to a list of all shareholders in the co-op corporation;
- * the right to participate in an annual meeting of all shareholders or unit owners and to receive timely notice of the annual meeting or any special meetings;
- * the right to inspect the minutes of all shareholders' or condominium association meetings;
- * the right to receive an annual financial statement;
- * the right to vote to amend the Proprietary Lease, Certification of Incorporation, Declaration of Condominium or Bylaws;
- * the right to be counted in elections proportionate to units or shares owned.

Despite these rights, shareholders and unit owners who are treated unfairly and arbitrarily by their board have often found that the deck is stacked against them when they seek changes, particularly when the board is still controlled by the sponsor. A recent decision by the Court of Appeals, however, may strengthen the hand of tenant-shareholders in dealing with the sponsors of co-op conversions. In 511 West 232nd Owners Corp. v. Jennifer Realty, the Court of Appeals upheld a lower court ruling and held that the sponsors failure to sell unsold shares constituted grounds for a breach of contract proceeding.

PROPERTY TAX EXEMPTION PROGRAMS

The NYC Department of Finance administers a number of property tax exemption and abatement programs for which you may be eligible:

All homeowners who are New York State residents qualify for the **Basic School Tax Relief (STAR)** program regardless of age or income as long as they live in the property they are claiming. STAR exempts \$30,000 of the full value a home from school property taxes and provides savings of approximately \$190 a year. Senior citizens who qualify for Basic STAR and have an annual household income less than \$66,050 are eligible for **Enhanced STAR**. Enhanced STAR exempts \$50,000 of the full value of a home, providing average yearly savings of \$315. To apply for either STAR benefit you must complete an application (form RP 425) between November 1st and January 5th and return it to the NYC Department of Finance.

The **Senior Citizen Homeowner's Exemption (SCHE)** is a partial real property tax exemption available for property owners, aged 65 years or older with an annual income below \$32,400, and who reside in residential properties including one-, two-, or three-family homes, condominium units, or cooperative apartments. Property owners may apply for the exemption between July 15th and March 15th in order to qualify for benefits that are reflected in their next annual real estate tax bill.

Note: Applicants who qualify for SCHE automatically are eligible for the Enhanced STAR exemption. Individuals who file for SCHE do not have to file a separate application for STAR.

The NYC Department of Finance also administers a **Disabled Homeowners Exemption (DHE)** which provides a partial real property tax abatement for property owners who have a medically certifiable disability, an annual income below \$32,400, and who own and reside in a one-, two- or three-family home, condominium or co-op. Eligible property owners must apply to the Department of Finance between July 15th and March 15th in order to qualify to have the benefits reflected in their next annual real estate tax bill.

For more information regarding any of these programs, or to receive an application, you may contact my office at (212) 490-9535 or the NYC Department of Finance at 311.