

April 4, 2010

Who Can You Turn To?



The Order of Things...

As you know, the Board of Directors makes all of the decisions which affect a cooperative and a Board of Managers makes all of the decisions that affect a condominium. But how are the decisions of each entity carried out on a day-to-day basis? Almost all co-ops and condos retain the services of a "managing agent", which is a company engaged in the business of managing the affairs of real estate entities. The managing agent will take care of all the operational needs of the co-op and condo, including payment of bills, hiring contractors to make repairs, handling the building's bank accounts and overseeing the sale and leasing of individual units within each co-op or condo. The managing agent also serves as gatekeeper between the apartment owner and the Board, thereby limiting the direct contact with the Board under most circumstances. Many managing agents also have separate brokerage departments that offer apartments for sale and lease. Logistically, someone has to handle the everyday affairs of a cooperative or condominium building. Boards are

made up of apartment owners who volunteer to serve and do not have the time to actually carry out the matters that are voted on. Although a few buildings are "*self managed*", which means that one or more unit owners attend to the operational matters of the building, most co-ops and condos are run by managing agents.

How Does it Work?

Once a managing agent is retained by a co-op or condo, the managing agent will assign an "*account executive*" to work with the building and be responsible for all matters affecting the building. In addition, larger buildings may also have a "*property manager*" assigned to the building who will be responsible for maintenance and repair issues. There are some coop and condo complexes, with hundreds of units, that actually have a representative of the managing agent "on site". Lincoln Towers on the west side of Manhattan is a good example of that type of coop-managing agent relationship. Sales and leasing matters will generally be handled by the managing agent's "*closing department*." That department is separate from building management, and once an apartment is about to be sold, the people in the closing department take over.

Sales and Leasing

One of the main functions that managing agents carry out is to oversee the sales and leasing process for co-ops and condos. The closing department of the managing agent will set up the application process, prepare the sales packages and act as intermediary between the building and the potential buyer or lessee. This process is incredibly paper intensive and time-consuming. It makes sense to know the people in the closing department so you can make sure that your particular sales or leasing package doesn't get placed on the back burner. In most cases, a sales or leasing package will be forwarded to the Board as soon as a "complete" package is received by the closing department. Accordingly, make sure that the sales or leasing application package is complete in all respects when it's submitted. There are no exceptions.

There are Good Ones and Bad Ones

Like anything else in life, there are good managing agents and bad ones. By "bad", I mean inefficient, difficult to deal with, unresponsive to problems and slow to get things done. Why buildings continue to employ agents that everyone hates dealing with is one of the great mysteries of New York City living. Further, from time to time, there are scandals involving managing agent employees putting their hands in the co-op and condo cookie jars. The favorite cookie seems to be price fixing of large repair or capital improvement programs where thousands of dollars are paid by the building to contractors, engineers and architects. The prices of the jobs are inflated and

everybody skims a little off the top. Just to give you an idea of how difficult a situation it is, a number of years ago, one of the people arrested was in the process of writing the ethical rules to govern managing agents. Nice. All this being said, most managing agents know what they're doing, but are just too busy handling too many buildings. As a result, it can be very difficult to get someone on the telephone. Some managing agent employees hear the telephone ringing, but just aren't sure what it is. Maybe it's phone phobia. On the other hand, there are a number of agents who are real pros and are a pleasure to deal with. They are sensitive to the needs of the individual owners, the Boards they represent and the professionals who deal with them on a day-to-day basis. A responsive managing agent makes the process of selling or leasing an apartment or resolving a problem a lot easier.

What Happens When You Have a Problem?

Sooner or later, every unit owner has an issue which must be addressed by his or her building. Whether it's a request to make alterations, a leak, a noisy neighbor, a weird smell, bugs, or a problem with a building employee, the apartment owner will need to contact the managing agent. Here are five rules to make the resolution of a problem a little easier:

Rule One: Know Thy Account Executive.

Don't be shy about introducing yourself to the account executive for your co-op or condo and keep such person's telephone number handy. These people are bombarded daily with complaints and problems from the entitlement and prima donna capital of the world (Manhattan). A little personal contact will go a long way to resolving a problem.

Rule Two: Call the Super First.

If you can handle the problem with the superintendent of your building (like a minor repair), don't get the managing agent involved. First of all, if you contact the managing agent for a minor matter, the account executive will give the super grief for not handling the matter inside the building. That makes the super unhappy. That's not good. Remember, account executives handle hundreds of complaints. Limit your contact to serious matters.

Rule Three: Put Your Communication in Writing.

If your telephone call to an account executive is not returned within 24-hours (or sooner when an emergency arises), fax or E-mail the account executive outlining the problem and indicate that your call was not returned. The main goal of the written

contact with the account executive is to eliminate the possibility that someone will mis-characterize your request or forget that you called entirely. With very few exceptions, you will find that a letter or E-mail will work and the problem will be addressed in the ordinary course of business.

Rule Four: Call A Board Member.

If there is still no response, contact a Board member or the president of your co-op or condo, if appropriate, and outline the problem and the lack of a response from the Managing Agent. Managing Agents get hired to protect the Board from involvement in day-to-day management and problems. When an apartment owner cannot get satisfaction from the Managing Agent and a Board member has to get involved, that usually expedites the process and awakens the interest of the Managing Agent.

Rule Four: Call Your Attorney.

Unfortunately, if you have a problem that doesn't affect anyone else in the building but you, it is sometimes difficult to find enthusiasm on the part of the managing agent or Board to solve the problem. This is particularly true when the solution to your problem is an expensive one, like re-pointing a portion of a facade to eliminate water infiltration into your apartment. Often a Board will want to address a serious repair issue as a part of a larger project sometime in the future. When that happens, it can be frustrating for the apartment owner and it can greatly impact the apartment owner's quality of life.

Why Involve an Attorney?

Particularly when there is potential liability on anyone's part, an attorney should be brought into the process, just to make sure that matters are handled in an appropriate manner. Yes, it's an additional cost, but when a serious matter arises involving your apartment (like an unexpected lake in your living room), and both the managing agent and the Board are dragging their feet, having someone on your side who knows what to do can help speed up the resolution process. In my experience, attorney intervention usually provokes a response from the managing agent and/or the Board, relatively prompt action and attentiveness to the problem.

Residential Reality: Going Nuclear Should Not be Necessary

For the most part, unit owners and managing agents splash in the pool together without much conflict. When a problem does happen, following the above rules should make finding a solution a lot easier.

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110 East 59th Street, 23rd Fl., New York, NY 10022 Tel: 212.826.2405

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