

February 7, 2010

The Cooperative Difference



An Important Difference Between Co-ops and Condos

Although there are major advantages to condominium ownership (like the ability to sell or lease an apartment without significant interference from the Board of Managers), there is one significant difference (and perhaps advantage) to cooperative ownership: the relationship between the apartment corporation and the tenant-shareholder is that of landlord and tenant. As a result, the tenant-shareholder (that is, the owner of shares allocated to a particular co-op apartment) has all of the rights and protections afforded to a tenant under New York law. When a dispute arises either with the apartment corporation or with another co-op owner, the tenant-shareholder may be able to benefit from applicable landlord-tenant protections to help bring the problem to a solution. An owner of a condominium does not have this protection. Simply stated, the condo owner is not considered a tenant for purposes of landlord-tenant law in New York and can't rely on statutory protections granted to tenants.

One important statutory protection afforded to tenants is known as the "Warranty of Habitability". Under this law, a covenant is implied into every lease for residential premises in New York to insure that a tenant's apartment and the building in which the tenant is living is "fit for human habitation" and is free from any conditions which would be dangerous, hazardous or detrimental to one's life, health or safety. When a landlord fails to provide these minimum standards, a tenant may be entitled to a rent abatement as compensation. In the case of a co-op, a tenant-shareholder might be entitled to a maintenance adjustment if the apartment corporation failed to provide essential services such as heat, hot water or elevator service or allowed a dangerous condition to exist. When these types of conditions are present in a condo, the condo

owner cannot take advantage of the warranty of habitability because the condo owner is not considered a tenant. The condo owner must rely on those remedies applicable to property owners in general, which do not necessarily favor the special nature of the landlord-tenant relationship. The Court of Appeals, New York's highest court, has emphasized that the purpose of the warranty is to insure that tenants are provided with a living space that is suitable for residential habitation. The warranty is not to be used to enforce lease provisions that create higher standards and amenities in particular buildings.

For more about the basic differences between a co-op and a condo, see [The Great Co-op Secret](#)".

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