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# HABITAT

WWW.HABITATMAG.COM JUNE 2007

## ADMISSIONS POLICY Two "Tell-All" Bills Advance

BY JENNIFER V. HUGHES

For decades, lawmakers have been trying to pass bills that would fundamentally change the co-op admissions process, requiring board members to give prospective applicants the reasons for rejection or face fines. But that was news to Bonnie Honya, who has been on the board of her 1,788-unit Queens co-op, Clearview Gardens, for ten years. A few months ago, when Honya heard about a bill first proposed by Councilman Hiram Monserrate in 2004, she took action. She set up meetings with council members, wrote letters and emails, and lit fires under board members at other buildings to get them to do the same.

"I'm on a mission," says Honya, who has lived at Clearview for all of her 49 years. "I'm very upset that volunteers are going to be treated like criminals." Monserrate's bill would require that boards give applicants a list of reasons for denial within five days of their rejection, identifying specifically how the applicant failed to meet standards. Failing to do so could result in fines ranging from \$1,000 to \$15,000 for a first offense.

About two-thirds of the members on the City Council have signed on to the bill. Proponents say it would prevent boards from discriminating against prospective applicants because of such factors as race, family status, or disability. Critics contend it will encourage unnecessary and costly litigation and scare off prospective members from serving on the board.

"I think folks want to keep the privacy they had, the same way that country clubs had in the past," says Monserrate, a Democrat from Queens, who drafted the bill after hearing complaints from constituents. "I don't think that's right, in fact, I think it's very un-American." The bill's opponents point out that a more apt - and accurate - analogy would be to compare co-ops not to private clubs but to private corporations, which is in fact what they are. No one asks corporate boards to reveal their inner workings.

In May, a state bill identical to another state bill put forth in March 2005 was introduced that would go even further than the city legislation. In addition to demanding a list of reasons for rejection, this proposal would require the board to either reject or approve an applicant within 45 days. The penalty for noncompliance? The applicant is automatically granted acceptance.

Although the New York State Association of Realtors supports the city bill, it is also gunning to convince the council to adopt legislation that would include that 45-day deadline, says Duncan MacKenzie, director of government affairs. But Greg Carlson,



executive director of the Federation of New York Housing Cooperatives & Condominiums, says that the deadline is too tight, the penalty too harsh, and the language too vague. He notes that the deadline clock starts ticking after a board receives a "completed" form, a nebulous term.

"Is it completed if I have questions and need additional information? This is going to be really onerous, especially on those self-managed buildings staffed by volunteers," says Carlson, whose organization has joined forces with the Council of New York Cooperatives & Condominiums, the Coordinating Council of Cooperatives, and the HDFC Council to

lobby against the legislation.

Barbara Ford, who owns both eponymous real estate and law firms in Queens, says the deadline was aimed at boards that want to reject someone for unlawful reasons and effectively do so by dragging their feet on applications. Ford cites a case where a woman who required full-time nursing care (a status protected under the Americans with Disabilities Act) applied to buy a unit in a Queens co-op, but the board stalled the application so long that she lost her bank commitments.

Lawyer Geoffrey Mazel, a partner in Hankin, Handwerker & Mazel which represents buildings consisting of about 7,000 units, says the unique nature of co-ops requires that boards evaluate candidates thoroughly. Under the bill, if a board member finds out something bad about a prospective applicant from, say, a former neighbor, the board would have to list that source of information. "If I have to reveal that, let's be real, no one would tell me anything."

Mazel thinks that the lost-business argument is ridiculous. "Let's put the moving company there, too," he says, adding: "This legislation would be an attorney's best friend and a board member's nightmare. It helps nobody but attorneys who can make a living off technical violations. It provides no additional protections for individual purchasers and almost criminalizes the process by imposing such severe penalties for technical violations of the statute."

Mazel says that in talking to City Council members who support the bill, he was "shocked to learn that many of them do not live in co-ops and have very little knowledge of how they operate, and yet would impose such a burdensome piece of legislation on board members."

Jennifer V. Hughes, who wrote "A Vision of New York City" in the May Habitat, writes for the New York Times.