



THE LAW TIMES

Serving The Legal Community
And The Public At Large

MAY 2007
Volume 4 Issue 4



Intro 119 The Misguided Attempt To Help Coop's

by
Geoffrey Mazel, Esq.

A basic principle of living in a Cooperative apartment is that the Board of Directors may reject any prospective shareholders, as long as they do not discriminate. While this has upset some rejected applicants over the years, this basic concept has contributed immeasurably to the stability and quality of Coop life in the City of New York. The New York City Legislature has introduced a bill, Intro 119, known as the "Fair And Prompt Coop Disclosure Law", which if passed, will dramatically change the rules of the game.

As things stand now, a Coop Board does not have to give a reason to reject an application to purchase shares. The approval of all prospective purchasers is within the "good business judgement" of the Board members. This right has been recognized by the Courts for generations. The only limitation is that the Coop Board may not violate any applicable discrimination laws. If they do, the City and State provide free assistance in helping the offended party prosecute discrimination claims.

Despite these protections, the New York City Legislature has decided to get into the Coop game with Intro 119. In fact, this proposal changes the rules of the game drastically. Under Intro 119, the law would require Boards to send a written rejection letter to the purchaser outlining reasons for the rejection. This proposal sets strict time limits for the Board to act and if violated it imposes steep penalties on the Board.

While the intent of the law may be noble, its direct effects on Coop life may be devastating. Remember, a Coop Board member is a volunteer who receives no compensation for their services. This law puts them on the firing line of every rejection and possible exposure to lawsuits. The effect of this law will be to chill potential candidates for a Board and the loss of many qualified candidates.

What is a Board member to do if a rejection is based on false filings in a tax return; the applicants inability to follow rules; or bad references from his prior neighbors??? The list goes on and on. This proposal will now require Board members to put these reasons in writing and sent to the applicant. These writings can result in both embarrassment to all involved and of course, in a lawsuit. Why should a volunteer Board member be put in such a position?

Any resulting litigation costs will be borne by the Cooperative Corporation. In addition, it is inevitable that insurance rates for Board members will also go up. Clearly, this is not "fair" to the Coop Boards or their shareholders and could result in tremendous costs to the Coop.

As we stated above, the current laws adequately protect a Coop applicant. A rejected applicant can get free prosecution of a discrimination claim, by the State and City Human Rights agencies. If there is a finding of discrimination, the Coop is subject to all applicable fines and penalties. This current proposal in the New York City Legislature will do more harm than good. It is certainly not fair to those who live and serve the Coop community and will result in layers of bureaucracy and increased costs of living.

Geoffrey Mazel, Esq. is a partner in a law firm in Midtown New York. His firm specializes in the representation of Cooperative Corporations and currently represents over 7,000 units of Cooperative housing.

