

Co-op Board Admissions Guide

This guide is designed to explain the anti-discrimination requirements that all Boards must follow. Included are recommendations on how a Board should conduct the application process.

Most cooperative corporations require a prospective purchaser to submit an application and various supporting documents containing personal and confidential information concerning an applicant's history and finances. The Board of Directors may also require one or more personal interviews with the prospective purchaser. The handling of this application and interview process may be subject to scrutiny and claims of unlawful discrimination. An applicant who is a member of a protected class may perceive that he/she is being held to a different standard than other applicants. To protect itself from unfounded claims of discrimination, it is important for a Board to develop a carefully conceived policy and clearly stated procedures in the handling of applications.

Historically, the right of the Board of Directors of a cooperative to allow or withhold consent from a sale, for any reason or for no reason, has been recognized and protected by the courts. Members of a cooperative corporation have the right to decide for themselves with whom they would like to share their community.

Discrimination is prohibited in Board admissions procedures.

Each Board's application process must comply with the following laws:

The Federal Fair Housing Act

The Civil Rights Act

The New York State and New York City Human Rights Laws

Protected Categories

There are currently fourteen protected categories under which claims can be brought against a New York City cooperative either in the courts or before a city, state or federal administrative body if a prospective purchaser believes that a rejection was due to discrimination because of their:

Age

Alien Status

Children(or childless state)

Country of National Origin

Creed

Disability

Gender(including gender identity)

Lawful Occupation

Marital Status

Military Status

Partnership Status

Race

Religion

Sexual Orientation

It is unlawful to discriminate or refuse to sell or rent to a person based on any of the above named 14 categories. These categories cannot be referred to in any advertisement offering or seeking property for sale or rental. These laws prohibit the representation to any person that a dwelling is not available for inspection, sale, or rental, when the dwelling is in fact available. It is also prohibited to make any representations in connection with the purchase, sale, or rental of any property, that there will or may be physical deterioration of dwellings in the area, and regarding changes that have occurred or may occur in the racial or religious composition of a neighborhood.

Board Responsibilities in the Admissions Process

While Boards have the freedom to set admissions policy and procedures, below are recommendations on how a Board should conduct the admissions process.

The Application Package and Process

- Establish a standard application package. REBNY and CNYC have each prepared a model Purchase Application for the Sale of a Cooperative Apartment and a Sublease Application for the Sublease of a Cooperative Apartment.
- If the Board has specific requirements that differ from the standard package, a statement should be added to the application.
- While the application process established by each Board is unique, a goal should be set of 6 weeks from receipt of a complete package for a response by the Board. Disclose any deadlines or established time frames for review. For example, if applications are only considered at a monthly meeting, advise the date of the meeting and how far in advance the package must be received to be considered at the meeting.

The Application Review

- Review the corporation's by-laws regarding who is authorized to review applications and make decisions concerning admissions.
- Appoint a subcommittee or Admission's chair to oversee the application process. The subcommittee, chair, managing agent, or other professional should ensure that each package is complete before submitting it to the Board.
- Timeliness in the admissions process is important. A timely review process is in the best interest of directors, shareholders, and new neighbors.
- Identify circumstances that justify a longer review process and be proactive with those applicants. For example, advise brokers that credit checks for applicants from out of state or country take longer to process and allow advance submission of credit authorization to speed up the process.
- Maintain confidentiality of all applicants' information.
- Conduct a complete review of the application package, credit report, and other supporting information and contact all references before scheduling an interview. Verify all information.
- Avoid any dealings between board members and applicants before the interview takes place.

Interview

- If the application, including financials, is complete and satisfactory, schedule an interview.
- Make a decision promptly after the interview if no further information or assurances are needed.

Response

- Promptly inform the applicant of any additional information required or decision made.
- If a rejection is contemplated, the Board should consult its attorney before making this decision.
- Acceptance or rejection notification should be sent by the managing agent or attorney for the cooperative.
- After a decision has been made regarding an applicant, have Board members shred or otherwise destroy the financial statements and personal information in purchase applications other than a file copy.