Newly Proposed Legislation Strikes At Autonomy of Co-op Boards

By Stephen J. Budihas

At times elected officials are all-to-quick to address the complaints and concerns of a disgruntled individual or a fat-cat supporter by proposing a new blanket of legislation that would needlessly and unfairly cover thousands of law-abiding and already scrupulously governed citizens. Such is currently the case, in both the State legislature and the City Council. Representing only the prurient self-interest of some few realtors eager to rapidly turn over the sales of apartments and perhaps even fewer resentful prospective purchasers of apartments who failed to meet the criteria for admission to a co-op here or there – bills have been proposed that would drastically hamstring, undermine and negate the best efforts of legally constituted co-op review committees throughout the City and the State.

Boards of Directors are elected regularly from among resident shareholders. They have a fundamental fiduciary responsibility to the corporation. When they review the financial applications of prospective residents their interest is in the preservation and perpetuity of the Corporation, and by extension the protection of all of the building's shareholders. The process is a detailed, challenging, often exhaustive one – and one whose importance should never be underestimated nor rushed. One need look no further than to the the financial crisis of 2008 that impacted home owners throughout the country causing many mortgages to fail and homes to be surrendered in default, to appreciate the value and effectiveness of the forward-looking financial policies practiced by Riverdale's boards of directors that helped ensure that our neighbors remained secure in their homes during that difficult time.

Recently New York State Senate bill ***S.2540*** was introduced that states that the procedures implemented by co-op boards, "have the potential to be misused to illegally discriminate against a purchaser. . . ." Of course, they have that potential. And any Board that discriminates or in any way violates any law must be held accountable, and they should be held accountable in order to protect the good name and reputation of all of the legitimate, honest and law-abiding buildings that flourish under the cooperative system of home ownership. The bill's sponsor would provide unreasonably short periods of time for boards to turn-around documents and to render final decisions, and would provide for the automatic approval of applications when the time schedules are not met. This imposition will not serve to diminish discriminatory practices. Such time limits exist in no other form of housing and should not be imposed on coops. When considering prospective shareholders, co-op boards universally do their best to insure that the candidates are qualified to meet all pertinent obligations, and such due diligence should never be subjected to unduly hasty time constraints. Faced with the restrictions suggested by ***S.2540***, boards will find that they are unable to fulfill their fiduciary obligations to their corporations and their shareholders, and buildings and their communities would only suffer as a result.

In behalf of all honest, hard working and fair boards of directors, the Association of Riverdale Cooperatives & Condominiums strongly opposes ***S.2540*** and urges our legislators in Albany to adamantly oppose the legislation. Similarly, ARC is opposed to two (2) bills currently before the City Council.

Intro. No. 1467 is similar to the state senate bill described above, but takes the issue several steps further, seeking to implement hefty fines of up to $10,000 at each step along the process of application, when newly mandated turn-around times are not met. This proposition would place unnecessary and unduly burdensome constraints on all fairly constituted boards – those that operate with the law and within the boundaries of sound judgment and reason. The Association of Riverdale Cooperatives & Condominiums calls upon all City Council representatives to strongly oppose ***Intro. No. 1467*** and thereby support and demonstrate the trust that they ought to have in the tens of thousands of cooperators and their boards that operate fairly within the limits of law.

The other legislation currently under review in the City Council that ARC strongly opposes is ***Intro. No. 1458.*** This proposition would mandate that if a prospective purchaser is disapproved, they be supplied with a written explanation of all of the reasons for withholding consent. Boards would be required to specifically identify each (and all) element of the application that was found deficient, as well as statistics on the approvals, disapprovals and reasons for all other applications that the board considered within a three-year period. The proposition places severe time constraints on every step of the application review process and provides for statutory damages of up to $25,000 for each failure to timely comply. Procedures such as these only attack the fundamental core of cooperative living: the ability of resident shareholders to democratically determine their lifestyle and the stability of their corporation. The demands are totally unnecessary, impractical and could have little effect other than to dissolve boards of directors in the absence of tenants who care to expose themselves to such onerous constraints, penalties and the obvious potential for litigation at every turn.

Legislators in Albany and in New York City need to recognize, respect and defend the legitimacy and the honesty of most co-op boards; and to simply punish those who violate the well-established laws that already exist to safeguard the system and all those who may apply to it. We do not need more capricious, oppressive restrictions on a system as well-established, well-governed and well-functioning as co-op living is today.