

With an important special election for our local City Council representative fast-approaching, the Association of Riverdale Cooperatives & Condominiums (**ARC**) believes it is important to know how each of the candidates seeking to represent Council District 11 regards several of the important issues confronting co-op boards, co-op shareholders and condo owners.

In its effort to provide its membership and residents of our community with the insight necessary to be informed voters, **ARC** asked all of the candidates the same questions, and the unedited written responses from **Eric Dinowitz, Jessica Haller, Daniel Padernacht** and **Kevin Pazmino** are published here, exactly as received. Note that Carleton Berkley and Mino Lora did not respond to numerous requests for their answers.

ARC: The taxing of real property has always been a hot-button item and certain inequities continue to exist. Currently, owners of 1–3 family homes are taxed at a significantly lower rate than shareholders who live in co-operatives, which are taxed in the same category as rental buildings. Explain why the system is fair as it is, or needs to be changed (and how).

Dinowitz: Those who live in co-ops are homeowners. The current system is unfair. Class 2 properties like co-ops should be assessed at the same rates as class 1 properties. DOF is constrained by NYS law in valuing co-ops and condos as if they were rental properties instead of using actual transaction prices.

Haller: The nature of the co-op confuses everything (and everyone). Co-ops today are taxed at the same rate as rentals, yet rentals generate income for the landlord and co-ops are not-for-profit corporations where all revenues are returned to the reserves or operating budget, and not to the shareholders. We need a non-regressive tax structure. And in fact, the whole notion of ‘tax assessment’ on properties and the opacity associated with the tax rates needs to be rethought, reformed and made more transparent. Ultimately, we probably need to create a new category or status for the co-op, one hundred years after the creation of the co-op in NYC.

Padernacht: The current property tax system in New York City needs to be overhauled. The current administration has been steadily increasing property taxes across the board. I have seen cooperatives buildings with 10% increases over the previous year. The subject of property tax reform has been repeatedly raised and continually ignored by elected officials. Cooperative units that are owned by individuals should be taxed at the same rate as single family homes.

Pazmino: I personally feel that the fact that a home owner is taxed at a lesser rate is unfair. Considering the space and personal area a home owner has over people who live in a co-operative. To be taxed at the same rate as a rental building also seems off since not everyone in a co-operative has the same living space. Perhaps laws could be adjusted and individualize per unit.

ARC: Co-op and condo boards operate lawfully under the provisions of business law and can make important decisions under the Business Judgement Rule. There are those who would like to see more restrictions placed on the powers of boards. Explain why you believe co-op/condo boards should be more closely regulated, or why they should be left to function as they have for decades.

Dinowitz: The Board of Directors is elected by the shareholders to make decisions on a routine basis. Very often these decisions need to be made quickly for the upkeep of a building. Tying the hands of the Board could create undue burdens on the quality of life for the cooperators and impact the finances of the co-op as well. If the board is operating in a reasonable manner in the best interests of the shareholders they should be given the leeway to make such operational and fiduciary decisions.

Haller: As a former Co-op board president, I know how complicated this is and how varied co-op boards are in their power, their engagement, and even in their kindness. It's complicated - as a fiduciary, you need to prioritize the fiscal health of the corporation, but sometimes that's at odds with human decisions that need to be made. I also believe that if it's not broken, don't fix it. In other words, if ARC were to report or if my City Council office were to receive dozens of complaints about co-op board overreach or mismanagement, then we can address the issue.

Padernacht: As an attorney, I understand the pros and cons of the Business Judgment Rule. Cooperative buildings should continue to operate under the Business Judgment Rule which provides that a Court will uphold a Board decision so long as it is acting for the purposes of the Corporation, within the Board's authority and is acting in good faith. The rule protects cooperative buildings from frivolous lawsuits which can be costly. The rule's protection also attracts board members with different professions and perspectives.

Pazmino: I feel if something is not broken, it does not need to be fixed. That said if there are issues that residents feel should be addressed then we should take a closer look. If residents feel that their voices are not being heard by the co-op board or feel that board members are biased, then they should have an outlet or resource to help level the playing field of representation.

ARC: You are proposing to represent a district that is comprised of nearly 20,000 residents in co-ops and condos – inarguably a vast percentage of your potential electorate. Explain specifically how you propose to deal with their special needs both in your office and in the Council, as different from all of the other general problems you will need to deal with.

Dinowitz: The 11th Council District is one of the most diverse in the city when it comes to types of housing. While it is true that the majority of the people in the district are renters, we have a very significant number of single-family homeowners and among the highest number of co-op shareholders in the City. I will be a fierce advocate and supporter of the needs of our co-op owners, of which I am one. As a co-op owner in Skyview, perhaps the largest private co-op in the Bronx, I understand the needs and value of the co-ops in our community. Our co-ops are an integral part of the strength of our neighborhoods and my office and I will always provide a strong voice for co-ops and will advocate for our co-op community at City Hall.

Haller: I believe that co-ops and condos in the Bronx are not just a specific constituency that needs attention, but that apartment-ownership in New York City is the goal. Co-ops and Condominiums are the foundation of great neighborhoods and a stable, equitable and sustainable housing system. My plan is to create an open, accessible and responsive constituent management operation. I built a constituent management system for the NYC Comptroller in the last administration so I have hands-on experience and I know how this can be done.

Specifically, to address the needs of co-ops and condo owners, I would bring ARC and management companies to the table in conversations about the neighborhoods. I'd also use new approaches to create relationships, here's an example: Finding skilled workers to do renovations is a challenge for co-ops and condo boards. Each time a large project comes along, boards almost feel like they have to reinvent the wheel. But for all the ARC buildings combined, there are probably a certain number of common area renovations going on at any one time. What if we connected the building trades unions to ARC and arranged for discounts and a steady flow of well trained, local labor for building renovations? It would certainly be worth a conversation, and IUPAT Local 9 is already open to that!

Padernacht: For 12 years I have served on Bronx Community Board 8, with 3 of those years acting as Chair where I ran the city agency. I understand the importance of responding to constituents. Given my legal background in real estate law, I have in-depth knowledge of cooperative buildings and their daily challenges. Further, I have stressed throughout my campaign that my first priority is to quickly get my district office online to answer resident needs for services in an efficient, responsive and effective manner. I am used to working long hours and attending meetings at 7am or 10pm to address issues. As your Council Member, I take that work ethic with me to provide the best constituent services to our district.

Pazmino: Again, if the system is not broken, we should not fix it. If an applicant feels that there is just cause and evidence of discriminatory practices based on race or creed. Then I feel there should be some form of secondary review by the board to hear the applicant's complaint and possibly giving them a second chance to be approved.

ARC: Co-op boards of directors have a fiduciary responsibility to maintain the fiscal solvency and stability of their corporations while strictly adhering to anti-discrimination laws. To do so they have the power to review applications from those who wish to purchase shares and reside in their buildings – and make those judgments without offering any reasons in cases of rejection. Explain why you believe this policy should be retained or changed.

Dinowitz: Issues of discrimination have long been raised against some co-op boards around the city. All forms of discrimination by any co-op board must be condemned and prevented. Fortunately, we have strong and effective laws in place to do just that. I believe co-op boards must be able to act independently and without interference as long as they comply with the letter and spirit of the law. It is important to remember and acknowledge that board members are volunteers.

Haller: The power to review applications for people purchasing shares in the co-op is important to buildings and their boards for many reasons. During my ten-year co-op board tenure, we reviewed and approved our share of applications and rejected only one. I know we rejected that person purely based on financial risk. Yet I also see room in the process for bad actors and discrimination. I propose that the City use data to help the industry (including ARC, brokers, buyers, sellers) monitor what's going on in these deliberations as follows:

In the same way that sales are publicly available, create a publicly available dataset of the number of applications, approvals and rejections in a particular co-op. This data can be updated annually. We will then be able to see which buildings are the worst offenders for rejections. Co-op owners will then be able to use their judgement to either keep or vote out their co-op boards. Discrimination on the basis of race, religion, sexual orientation, disability is real. Buildings that reject a greater share of applicants will be subject to the scrutiny of their own residents. Fiscal solvency and stability also means occasionally allowing apartments to sell at values that the co-op may not approve of. We are in a recession, bordering on a depression, and anecdotal evidence suggests that boards are rejecting sales based on the sale price. Protecting the value of the units is important, but so is giving liquidity to neighbors in a down market. My proposal will also protect shareholders from excessive use of this power. Again, if the shareholders don't like the trend on approvals, they can elect a new board.

Padernacht: The policy of approving or declining applications from those who wish to purchase shares and reside in cooperative buildings without Board members offering reasons in cases of rejection should be retained to prevent excess litigation. This policy is incorporated in the Business Judgment Rule. Cooperative boards must strictly adhere to anti-discrimination laws and Board members should continually review these laws.

Pazmino: Again, if the system is not broken, we should not fix it. If an applicant feels that there is just cause and evidence of discriminatory practices based on race or creed. Then I feel there should be some form of secondary review by the board to hear the applicant's complaint and possibly giving them a second chance to be approved.

ARC: Reverse mortgages are available to private home owners and condo owners, but they are not currently available to those who own shares and live in co-op apartment buildings. Although this policy is not specifically in the purview of the City Council, explain why you believe reverse mortgages should or should not be available in co-ops and how you would take a public stand to defend your position.

Dinowitz: Co-ops shareholders should be eligible for reverse mortgages just like homeowners as long as there are strict consumer protections in place and it does not put other shareholders at risk.

Haller: Remember that a mortgage on a co-op is not actually a mortgage on real property: it's a security interest in a corporation. While co-op owners talk about their mortgage in the same way house owners talk about theirs, the actual financial instrument is different. This is a regulatory issue with NY State and I'd be happy to have this conversation with the State Banking committees in both houses. The role of the local Council member is to respond to the needs of the community. As our community ages, access to reverse mortgages will help the financial stability of homeowners.

The Reverse Mortgage question is really a question on how a financial instrument is defined. It's totally solvable. In the early days of Co-ops in New York City, a buyer could not get a mortgage to buy a co-op apartment because the co-op owner owns shares, not real estate. In fact, in my family lore, my mother's Uncle Nathan paid cash for his co-op in the 1940's because that was the only way to buy one at the time. Co-op loans were eventually structured to protect the interests of the co-op, the bank, and the shareholder. Reverse mortgages incrementally increase the co-op owner's debt, which could impact other unit owners in the building. With a combination of a new financial banking instrument and new rules from the co-ops, reverse mortgages can be part of the future with protections for co-ops, borrowers, and lenders.

Padernacht: Reverse mortgages should be permitted in cooperative buildings as a useful retirement tool. However, a recent article revealed a high number of foreclosures of reverse mortgages between 2013 and 2017 which involved seniors. With this fact in mind, each cooperative building should carefully evaluate whether their corporation should allow reverse mortgages given the potential financial impact it could have on the corporation. If the corporation allows reverse mortgages, certain safeguards should be considered as part of the approval process for this type of loan product for the good of the shareholder and the corporation.

Pazmino: I believe there should be an option for a co-op to receive a reverse mortgage if the community decides as a whole to do so. If a co-op community sought to make improvements or expansions to their shared property and decided unanimously to apply for a reverse mortgage. I don't see why they should not be allowed to.