

ARC's Top Questions for Elected Representatives

1) In New York State, the Business Corporation Law governs how housing co-ops and condos must be run. That law provides specific rules regulating the governance practices of co-ops, including the manner in which boards and shareholders conduct meetings, amend bylaws and vote, and the BCL prescribes the rights and responsibilities of boards and shareholders.

Recently, various legislative bodies have sought to abridge the rights described in the law and they would seek to further regulate the way that co-op boards currently operate their corporations.

Question: Do you believe that the present laws, those that have successfully governed co-op and condo boards of directors for many decades, should be changed to restrict their authority? Or should they be protected as they now stand?

2) A number of factors go into the calculation of property taxes, including Market Value, Assessed Value and Tax Rate which is set by the City Council each year based, in part, on state law requirements.

Currently there are several classifications of real property. The first includes 1- 2- and 3- family private homes. The second classification groups together co-ops and condos with residential buildings with more than four units, where landlords naturally manage their businesses in order to reap a profit.

Our State Legislature has, for the past 25 years, recognized the imbalance and innate unfairness of the real estate tax structure as it pertains to co-ops; and every 3-4 years has considered the concept of a tax abatement for co-ops in order to make things right. Hence, every 3-4 years all cooperators hold their collective breath hoping that fairness will be the rule of the day in Albany, and an abatement will be passed.

Question: Acknowledging the necessary and perennial dependence on property taxes, do you believe that co-ops and condos should remain in the same tax classification as for-profit rental buildings? Or should they be taxed on a par with single family homes?

3) Lawmakers in the State Legislature as well as the City Council have recently been proposing new rules that would require New York City co-op boards to state why they rejected a potential apartment buyer, seeking to capriciously end a longstanding and successful practice

universally in place, whereby boards do not have to provide reasons for rejecting offers to purchase.

The version of the proposed legislation in last year's State Senate bill, under the guise of preventing discrimination, would require residential co-op and condominium boards to provide written explanations when they decide to turn down applicants who want to purchase at their building. Under current law, boards are not required to offer any reason and for more than forty years, co-op and condo boards have been successfully operating under local, state and federal laws that prohibit discrimination in housing.

Question: Do you believe that a further restriction such as the one that would require written explanations to applicants from co-op boards is necessary?

4) Most cooperatives, and certainly nearly all of those in the Northwest Bronx, started out as rental apartment buildings. Landlords and building owners became known as sponsors and converted their properties by selling shares along with the right of occupancy. The conversions usually contained certain legal language in the offering plan that indicated sponsors had a certain amount of time to sell all of the shares in the buildings – with the eventual goal of having 100% of the building occupied by resident shareholders. Sponsors of many of those buildings have failed to complete the conversion, leaving resident buyers in a kind of limbo.

In 2002 the New York State Court of Appeals ruled that there is an obligation by the sponsor to continue selling all of the apartments in the conversion. It also ruled that offering plans included an implied promise to sell all unsold apartments "within a reasonable time." This ruling has not been adhered to by most sponsors, and as a result they often have dominant voices on what should be resident-shareholder boards of directors.

Question: Do you believe that the ruling should be enforced and sponsors should be compelled to sell the apartments they currently control?