

QUESTIONS & ANSWERS

Unpleasant Co-op Living

Q I have lived in a co-op in Little Neck, New York for 21 years. The shareholder-elected board of directors use their authority to mistreat the shareholders. They write letters that are nasty, rude and potentially derogatory. They've threatened me with letters when I was late with my maintenance payments during a period of time when I was caring financially and physically for my dying father. When I ask to meet with the board they ignore my request and continue to send unacceptable letters. These letters sent to the shareholders are cc'd to the co-op attorney.

Maintenance workers hand-carry our personal documents (i.e. refinancing package with mother's maiden name, social security number, etc.) and leave it in a mail slot where anyone can take it. We have an identity thief subletting in our co-op, who has been arrested and is back living with us. I have asked them numerous times, verbally and in writing, to avoid leaving my information like this and am told, "this is how we always do it."

They enforce the bylaws to the extent where you are treated like a criminal. I understand there are specific rules that are documented in the proprietary lease, and they add on new resolutions. However, we are not given updated copies of the proprietary lease, garage lease, etc. When you call and ask for them, the office manager is rude and refuses to send the information out. What is the extent of misuse of power by the elected board here? What recourse, besides moving, do I have in dealing with this situation?

—Had Enough in Little Neck

A "A wise man once said that there are always three versions to every story. In this case the three versions would be the letter writer's, the board's and the truth," explains Andrew P. Brucker, Esq. of the Manhattan-based law firm of Schechter & Brucker, PC.

"The letter writer complains that he is being mistreated and abused by the board of his cooperative and the manager. Yet he also admits that he has not paid his maintenance in a timely manner. Without knowing all of the facts, we do know two things: first, the letter writer is obligated under his proprietary lease to pay his rent on time. The cooperative typically has a break-even budget (i.e. the income equals the expenses, though some small amount may be designated as reserve). Without all shareholders cooperating and paying their maintenance, the cooperative corporation might have financial problems.

"We also know that the board of the cooperative (and the manager) is supposed to do what is necessary to operate the cooperative. They have a very specific job to do, and part of that job is to collect the maintenance. If the shareholders do not pay the maintenance (or breach any provision of the proprietary lease), the board and the management must take action. That is what they are supposed to do. It is their mandate.

"Having said that, however, the board should be understanding if the shareholder is in the middle of a financial or



personal crisis. But that only goes so far, and the shareholder should understand this. Further, the letters from the board and management should not be 'nasty, rude and potentially derogatory.' However more often than not, letters which are straight forward and business-like (and perhaps even cold) are often viewed as nasty and rude by those receiving them.

"The issue of documents being hand delivered is a tough one. In many cooperatives, especially small ones, all notices and letters from the board or management are hand delivered. It is simply easier and less expensive. If this is the manner in which it has always been done, there is little that can be done about it, since it is a board decision. In fact, more than likely, the proprietary lease even provides that notice may be delivered by hand. If enough shareholders believe that this is not proper, the shareholders might consider petitioning the board for a special meeting to amend the bylaws and proprietary lease to provide that all communications from the board be sent by mail.

"Finally, the letter writer discusses the question of proprietary lease and bylaw amendments. All amendments to those documents (and the house rules) should be in the hands of all shareholders. When those amendments are passed, management should send out copies to the shareholders. One explanation for management's refusal to send the amend-

ments to the letter writer may be the fact that the amendments have already been sent out, and in light of the obviously hostile relationship between the letter writer and management (and the board), management does not wish to go the extra mile and cooperate with the shareholder by sending out yet another copy. Also, since proprietary leases and bylaws are typically amended by a vote of the shareholders, and the notice of the vote must include the proposed amendments, it may very well be that the letter writer may indeed have a copy of the amendment that was passed.

"If the attitude of the board (and management) is so pervasive that other shareholders want a change, the ultimate power rests in the shareholders. The letter writer can certainly organize the other shareholders so as to vote out the current board and elect board members who are abusive. But short of that, there is little to do.

"In essence (and in conclusion), though the legal entity in which the letter writer is a shareholder is known as a cooperative, one should never forget that it is also a derivation of the verb which was used to describe the co-ownership of property: cooperate. Unless shareholders, the board, management, staff and the professionals of a housing company learn to cooperate, the corporation will be an unsuccessful and frustrating experience for everyone."
