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Q & A

Can a Co-op Board Limit Rent Charged in a Sublet?

Q I own a co-op in New York, and I want to sublet my apartment. I understand that the board has the right to approve the sublet, to limit the number of people in the unit to two and to ask for or forgo a sublet fee.

In agreeing to approve the sublet, my board wants to limit the rent I collect to the amount of my monthly maintenance. I need to make \$250 a month more than that, and I'm wondering why the board would not allow me to collect the additional money.

A Andrew Brucker, a Manhattan co-op and condominium lawyer, said that most proprietary leases require board approval for sublets. And typically, he said, the board can make its approval of a sublet subject to certain conditions. One such condition, Mr. Brucker said, could be a limitation on the amount of rent charged.

He added that while it might seem odd for a board to limit the rent amount, there is probably a good reason for the board's action. "Most co-op boards don't want their shareholders to be in the subletting business," he said, because they prefer to have as many shareholders in residence as possible and as few rental tenants. "So while they might be willing to allow a shareholder to sublet," he said, "they don't want them to get too comfortable doing so."

At the same time, Mr. Brucker said, not all proprietary leases allow the board to impose conditions for obtaining consent. So, he said, the letter writer should examine his proprietary lease to determine the extent of the board's power to control sublets.