

The New York Times

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NEW YORK, SUNDAY, SEPTEMBER 14, 2008

Q&A

Waiting for a Board To Begin Window Repairs

Q We own a co-op in Brooklyn. The building is brick, and we have interior water damage around our windows (bubbling and peeling paint, peeling windowsills and cracks below the windows). We are not the only ones with this problem.

For more than a year, both the co-op board and the co-op manager have agreed that this is a buildingwide issue and have said they are going to have the areas around the windows repointed and our walls and windowsills fixed — but nothing has been done.

I'm getting so desperate that I'm thinking of hiring workers to repoint the area around my windows and fix our walls and then take the costs out of my monthly maintenance until the work is paid for. Would I be within my rights to do this? What other recourse do I have?

A "It is the obligation of the cooperative corporation to maintain and repair the brickwork of the building," said Howard Schechter, a Manhattan co-op and condo lawyer. "Shareholders are not authorized to make these repairs."

It is also not practical for them to do so. "Performance of these repairs typically requires the use of a scaffold and erection of a sidewalk bridge," Mr. Schechter said. "And because this work is expensive, co-operative boards usually arrange for pointing and similar repairs to be made on the entire side of a building at one time, rather than hiring a contractor each time a complaint is received."

So, he said, the board may be planning a large repair project that will correct the writer's problem. "That can take time to arrange," Mr. Schechter said. "The board would be well-advised to keep the shareholders advised of its efforts."

He also said that the typical proprietary lease provides that the maintenance will be paid each month "without setoff or deduction." Thus, withholding maintenance or applying it to repairs is not authorized.

If the conditions caused by the failure to make necessary repairs are serious enough, Mr. Schechter said, they could be a violation of the New York City Housing Maintenance Code, which could subject the building to penalties. It could also be a violation of the warranty of habitability, which could entitle the writer to an abatement of maintenance.

An inspection can be arranged by calling the Department of Housing Preservation and Development at 311 or by starting an action in the housing part of Civil Court to compel the repairs.