



AT Academy: Co-op and Condo Virtual Law Series – Apartment Alterations, Combinations and Expansions

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Alterations Overview

- **Is there really a difference between apartment alterations made in a cooperative and a condominium?**
 - Guaranty for entity owners?
- **Alteration Agreements**
 - Input of lawyer, architect and insurance consultant, in addition to management and resident manager
 - Certain construction prohibited
 - Use of jackhammers
 - Wet over dry
 - Noisy over quiet
- **Insurance – owner and contractor**
- **Security Deposit**
- **How many alterations can proceed at one time?**
- **Review and approval plans and specifications**
 - Submission of project schedules
- **Notice of Commencement**
 - Inspection of adjacent apartments
- **Rules for Demolition**
- **Summer Rules**

Alterations Overview (cont.'d)

- **Inspections by staff, management and building architect**
- **Indemnification/covenant not to sue/assumption of risk**
 - While work is being performed
 - If work causes damage in the future
- **Completion of work**
 - Right to pay to work for a longer period
 - Board's right to suspend work
- **Assignment to purchaser**
- **Miscellaneous issues**
 - Electric service
 - Opening walls – inspection of pipes
 - Access panels
 - Building shutdowns

Enlargements and Combinations in Cooperatives

- Shareholders increasingly want to add to their space by combining and expanding apartments
- **Combination issues:**
 - Owners of both must be the same
 - If there is a share loan, the lender must consent and participate
 - Side-to-side or up-and-down
 - Amendment of certificate of occupancy? What alteration application form?
 - Approving sale to combine is not approval of the alteration to combine
- **Special considerations apply when public space is added to the apartment, such as incorporating a hallway, a portion of a roof or a setback terrace**
- **The Board usually has the authority to make this decision**
 - Assignment of additional shares
 - Sale price

Enlargements and Combinations in Cooperatives (cont.'d)

▪ Steps to follow:

- Get proposal with sketch showing current conditions in the public area
- Review for technical feasibility: e.g. structural obstructions and impact on building services
- Determine number of shares
 - Reasonable relationship
- Determine price
 - Appraisal
 - Formula
 - Standard pattern
- Are shares available?
 - Amending the certificate of incorporation
- Negotiate and execute a contract of sale

Enlargements and Combinations in Cooperatives (cont.'d)

- **Sale issues:**
 - One stock certificate/one lease
 - Lease rider
 - Sale is not consent to alteration – that requires a separate alteration agreement
 - Payment of corporation expenses
 - Resales, separation of units, obligation to restore
- **No-action letter?**

Enlargements and Combinations in Condominiums

- Tax Maps 101
- Enlargements
 - What do the bylaws say?
 - Does the Board have discretion?
 - License agreement
 - Can you charge for the space?
 - Are there any tax map implications?

Enlargements and Combinations in Condominiums (cont.'d)

▪ Combinations

- Amend the Declaration
 - How is that accomplished?
- Obtain tax lot designation for combined lot
- File Amendment to Declaration
- If this process is so complicated, why bother in a condominium?

Questions and Answers



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