

The COOPERATOR

The Co-op & Condo Monthly

QUESTIONS & ANSWERS

Q I live in a building in New York City that is currently operated as a rental. It's in terrible shape. Many of my fellow tenants and I have considered the co-op route. How does one go about this?

—Going Co-op

A "I think that your reader means that most of the tenants are either rent-stabilized or rent-controlled and does not generate a lot of income to run the building," says Michelle Freudenberger Esq., an attorney specializing in co-op and condo law based in Manhattan. "The reader is looking to convert the building either to cooperative or condominium ownership in part to generate more income in order to manage the building. However, the conversion process is a complex and costly one but may be worth pursuing in a state like NY which is protective of the rights of existing tenants.

"It is advisable for the tenants to form a tenants-association and hire an attorney with experience in conversions. The first decision to be made is whether the building should be converted to cooperative or condominium ownership. In order for the co-op owner to qualify for federal tax deductions no more than 20 percent of the income earned by the co-op corporation may be derived from commercial income. Therefore, if the building has commercial or professional leases which generate high income, the building may be

better suited for either condominium ownership or condo-op ownership which is a hybrid of a co-op and a condominium.

"Another determination which must be made is whether the building should be subject to an eviction or non-eviction plan. Under an eviction plan, a non-purchasing tenant may be evicted from the apartment unless the tenant is over 62 as of the date the Plan is declared effective or the tenant is disabled.

"Once these decisions are made, the attorney hired by the tenants association will draft a proposed offering plan disclosing the completed interests being offered for sale with the NYS attorney general's office which is followed by a final offering plan which allows buyers to purchase their apartments subject to certain terms and conditions. However, the plan will be declared effective when 15 percent of the apartments are sold in a non-eviction plan and 51 percent in an

eviction plan. The entire process may take at least two years but may be worth pursuing." ■

Disclaimer: The answers provided in this Q&A column are of a general nature and cannot substitute for professional advice regarding your specific circumstances. Always seek the advice of competent legal counsel or other qualified professionals with any questions you may have regarding technical or legal issues.

Q&A

Do you have an issue with your board? Are you wondering how to solve a dispute with a neighbor? Can't find information you need about a building's finances? Our attorney advisors have the answers to all of your legal questions. Write to The Cooperator and we'll publish your question, along with a response from one of our attorney advisors. Questions may be edited for taste, length and clarity. Send your question to: crystal@cooperator.com.