



Construction Law: A lawyer discusses working with the building handymen - by C. Jaye Berger

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When a shareholder needs to have something in their apartment fixed, the first person they are likely to reach out to is one of the building handymen. While they are knowledgeable and able to handle many types of repair issues, the boards of directors of the co-op building and their insurance carriers do not usually approve of these types of relationships. They are fraught with too much potential liability. I was recently consulted by a board member about this subject and was interested to note that the board member was arguing in favor of allowing such work, while several attorneys, including me, had recommended against it.

What may start out as fixing a leaky sink, can quickly turn into re-doing kitchen cabinets and changing toilets. These projects are being done with no insurance from the handyman and without filing with the applicable building department. This puts the building and its insurance company at risk for any claims, such as when a worker falls off a ladder and is injured.

The key question that must be answered is "Who are they really working for when these repairs take place?" They are doing this work during their normal working hours for the co-op corporation. The work may be more involved than what is in the normal scope of their employment, but the building may not even know that it is taking place.

The building staff is not usually in business for themselves, but even if they were, who are they working for when they are doing these projects for the shareholders? They do not have the appropriate general liability and workers compensation insurance that general contractors would carry. The co-op is not an additional insured on their policies. They are not licensed home improvement contractors. Therefore, if they are injured in the course of this work, who are they going to sue?

They will no doubt sue the co-op corporation and they will likely also sue the shareholder who invited them to do the work. What started out as a friendly gesture, can quickly become very complex and risky. Therefore, many buildings have an outright ban on such work.

If your building is aware of such projects or they are being discussed as a possibility, you are advised to consult with knowledgeable legal counsel.

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