



## **Construction Law: A lawyer discusses when the approved scope of renovations are exceeded - by C. Jaye Berger**

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In most co-ops there is a requirement for a signed alteration agreement before any work can be commenced. As part of that process, the shareholder must present architectural plans to the building for approval. If there is anything controversial in those plans, the issues must be ironed out before the work is started. This is usually worked out between the architects for the building and the shareholder. Sometimes the parties attorneys are involved.

Such alteration agreements are becoming more common in condominiums as they discover illegal and dangerous work performed by unit owners. An offshoot of such work are violations against the buildings. Even though the work in question may have been performed by a unit owner, governmental agencies may record the violation against the building and leave it to the board to “police” the work performed in the building.

In both types of buildings, the approved plans may be given to the boards and it emerges that the shareholder or unit owner exceeded or changed what was approved. Boards must be vigilant in trying to stop such activities, since they put the other units at risk for dangerous conditions and possible leaks. The most common example is when there is “wet over dry” work. Another concern is that additional space may be taken, such as when a window is installed and the opening grows into a new doorway.

Boards must act quickly to prevent anyone from claiming that they “acquired rights.” The offending party is served with a “Notice to Cure” asking them to restore the space to its original condition or face legal action. This can be quite terrifying to a shareholder. The way this gets resolved depends on what was done.

As an attorney who is often consulted about such matters, the first step is to see if there is any way the work can remain with certain safeguards being put in place and financial security in case of a problem. It can be nerve-wracking and expensive for the shareholders who have spent money on a renovation and may need to rip it out.

At the first sign of such a problem, the shareholder must seek advice from an attorney who works in this area of the law, rather than trying to negotiate himself.

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