



An attorney discusses renovating in a co-op or condominium in New York City - by C. Jaye Berger

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With all the dangers discussed on the news concerning the pandemic, it is sometimes startling to realize how much renovation work is still going on in and around co-op and condominium apartments and outside of those buildings and on adjoining properties.

Co-ops routinely have alteration agreements, but people living in condominium buildings can now also expect to have alteration agreements for work in those buildings. These agreements have evolved from co-ops having problems from projects. Condominiums need to be especially careful about violations on the condominium. Sometimes violations become difficult to remove especially as time goes by. In one instance, unit owners were going to have some renovation work done, applied for a permit and never went through with the work. In order to try to get rid of the violation they had to withdraw the permit. Since the Department of buildings no longer had those drawings, they literally had to be re-created in order to apply again, then remove it. It took well over one year to remove one violation. That violation was preventing a certificate of occupancy from being issued for some commercial space in the building.

I receive many calls from people who want to proceed with renovations and are being told by their buildings that they cannot go forward with their renovation "just yet." The unit owner wanted to go ahead with their renovation as soon as possible after their closing. When I listen to their stories, it often sounds as though they are creating many of their own problems.

In one recent phone call, the individual told me that they just wanted to do "a little bit of work" and couldn't understand why they had to go through so many hoops before they could start. They felt that the board was being unreasonably difficult with them and the caller was looking for legal counsel to accompany her to the next board meeting to state her case.

When I asked for details about what she felt was "a little bit of work" I was told that they just wanted to put in a shower where there has been a bathtub. That may seem to a layperson like just a little bit of work, but to my ears, as a construction and co-op attorney, I hear a lot of potential complications in that statement. Right off the bat, it involves doing "wet over dry" work. In other words, someone wants to do renovation work involving having water over a dry area below, such as a bedroom. It is not clear whether a building permit would be needed and the shareholder said she had not worked with an architect in preparing the sketches presented.

This is actually a very worrisome type of renovation because you need to make sure it is done with so much care that even if water were ever to be on the floor, it would not go through to the floor below. In that type of situation, buildings have to have very specific rules about what they want to have in place as safeguards. There will need to be a lead pan usually and Laticrete waterproofing around the sides.

Boards have considerable discretion under the "business judgment rule." It is so difficult and time-consuming to resolve these matters in court, the people are usually well advised to try to just work things out with the assistance of counsel.

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