



## **The Realty Advisory Board presents “Partnering Effectively with Your Union Staff”**

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New York, NY At BOMA NY’s March Forum, “Partnering Effectively with Your Union Staff,” the Realty Advisory Board’s president, Howard Rothschild and executive vice president Robert Schwartz presented a vivid picture of how the RAB negotiates collective bargaining agreements with 32BJ, the union representing more than 35,000 members employed in 3,200 apartment buildings in New York City; and Local 94, the union covering operating engineers in about 500 commercial buildings and 1,300 schools.

More importantly, the presentation offered present-day examples of the invaluable experience that the RAB has gained over more than 80 years. Both Rothschild and Schwartz explained how the RAB can help property owners to have productive relationships with two of the most powerful labor unions in the city.

Schwartz said, “We like to get to an agreement that every party thinks is fair, (and) if others go it alone, the deals they make typically aren’t as good.” Rothschild added that the RAB’s long-standing relationship with the unions has developed into one of mutual respect. To wit, Schwartz said, “During COVID, we negotiated dozens of agreements to cope with the pandemic,” a difficult task under the circumstances.

Both presenters acknowledged that unforeseen problems often arise in the interpretation of labor agreements, but they cautioned that problems should be ironed out before they devolve into a hearing before the National Labor Relations Board, or other complicated litigation.

To accomplish their mission, the RAB often acts as a de facto Human Resources department on behalf of their member companies. For example, the RAB often counsels employers on how to work with vacation relief employees, advising employers to provide clearly defined “start” and “end” dates that should be acknowledged by employees at the outset. On the other hand, the RAB counsels employers that workers who are hired to fill in for sick employees should be classified as temporary employees, and are subject to a different set of rules.

Other common issues involve full-time versus part-time employees. Schwartz said, “Our contracts cover work, not people. All employees in employment covered under the agreements are protected by the contract. Regular residential employees have a 90-day probationary period.” This detail becomes critical in disciplinary proceedings. “Take action early if you have any doubts about an employee’s performance,” Schwartz said. “Part-time does not mean without contract protection.

These employees work less than 40 hours a week, but are covered by the collective bargaining agreement, including the application of probationary periods and just cause for discipline.”

Most of the RAB’s presentation focused on the progressive disciplinary process involving employees. Rothschild opened by stating, “Get it out of your mind that you must warn an employee if there is a major violation. Egregious conduct includes gross insubordination, life threatening actions, theft and other criminal acts. All are subject to immediate termination.”

On the other hand, in the RAB’s experience, if violations are minor or commonplace, employers have the obligation to try to modify the employee’s behavior. “The solution is to create rules”, Rothschild said, “and notify employees.” Then, employers can issue a verbal warning, followed by discipline of increasing severity if the violation persists. But both presenters cautioned that supervisors should not get “locked into” a formal progression, and that “life is not as linear as guidelines.”

Warnings are often followed by suspensions, final warnings, and ultimately, discharge. At every step, employers should inform the employee that discipline is a progressive process. Warnings should be documented with details (even verbal warnings) – and copies to the union.

Schwartz stressed the importance of hearing the employee’s side of the story before taking disciplinary action. Rothschild agreed, citing a hypothetical case in which a long-time employee was repeatedly warned about his absenteeism. The employer finally reached a breaking point and fired the employee on the spot when he next showed up for work. “As it happened,” Rothschild said, “on that final absentee day, the employee was on his way to work when he saw an orphanage on fire. He raced into it and saved a nun! Would you like that story in the newspaper?”

Closing out their presentation, Rothschild and Schwartz reported on current labor issues in the city.

They noted that the City’s new garbage pickup schedules can be implemented under RAB contracts by giving three weeks’ notice of changes to their work schedules.

Also, the National Labor Relations Board recently ruled that broad confidentiality and non-disparagement clauses in union work contracts violate the National Labor Relations Act. However, both presenters agreed that the issue was “still in flux,” and that the ruling was not yet settled law.

Rothschild and Schwartz advised their audience to contact the RAB on cases regarding New York City’s Fair Chance Act, and the state law requiring employers to issue a conditional letter of employment to prospective employees before conducting a criminal background check. The RAB also reminded the audience that new job postings must include salary or wage ranges.

The RAB is a seasoned organization that leverages its eighty plus years of experience to negotiate contracts, as well as work on deals that involve grievances and arbitration. The 32BJ collective bargaining agreement will start negotiations in the fall. (The present agreement expires in April 2026.)

And, with Local 94 negotiations beginning this December, property owners and managers should understand that the best solution is the one in which both sides benefit.

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