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Real Estate Q&A

Expert Advice for Owners and Renters

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Co-op Board Repeatedly Rejects Potential Buyers

By JAY ROMANO

I own a one-bedroom co-op in Yonkers, and the board has rejected four buyers for my unit in the past two years. The mortgage is paid for, so I am paying the maintenance for an empty unit. The board is unsympathetic. What happens if I just walk away from the apartment?

“Most co-op proprietary leases allow a tenant-shareholder of an apartment to cancel the lease and relinquish possession of the apartment,” said Alexander Suslensky, a Manhattan real estate lawyer.

Typically, Mr. Suslensky said, the cancellation right is available on only one date per calendar year and requires the apartment owner to follow strict notice provisions. Many proprietary lease forms, he said, allow cancellation to be effective as of Sept. 30, provided proper notice is given to the co-op on or before April 1 of the same year. To complete the cancellation, the apartment owner must pay all maintenance and other charges due, and the apartment must be relinquished free of all liens and encumbrances.

Mr. Suslensky acknowledged that simply walking away from the apartment and not paying the maintenance might work out fine for the letter writer if the apartment is subsequently sold and the sale price covers any outstanding maintenance charges and other fees. Any proceeds of the sale left over after the bills are paid would go to the writer.

But walking away without following the cancellation procedure may subject the owner to liability for additional charges (including the co-op’s attorney fees and accumulating maintenance charges until the apartment is sold). In the event the apartment is not sold, the letter writer could be liable for many months of maintenance charges.

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