



**FEDERATION OF NEW YORK HOUSING
COOPERATIVES & CONDOMINIUMS**

**EXECUTIVE DIRECTOR'S
REPORT**

**By Gregory J. Carlson,
Adv RAM, HCCP, nyarm, RCM**



By the time you receive this newsletter, the Cooperative Development Foundation will have honored Charles and Eva Rappaport by inducting them into the Cooperative Hall of Fame. Many thanks to Paul Korngold, Tuchman Katz Schwartz Gelles Korngold & Weiss, Howard Schechter and Andrew Brucker, Schechter & Brucker, Phyllis Weisberg, Kurzman, Karelsen & Frank, Wentworth Management Group and Donna Klein for their generous support in advertising in the commemorative journal. The Rappaport family was pleased by the CDF's outstanding recognition.

Since the time of the Rappaports, the Federation's motto has been "An informed board is an effective board." On Saturday, June 11th the Federation will be conducting its "Annual Education Conference." The topics are timely and varied. It will be of interest to our entire membership of board members and residents. For detailed information, please see this newsletter – hope to see you all at the LaGuardia Marriott.

The Federation continues to monitor legislation on the federal, state and city level. In every piece of legislation that involves multi-family housing, the City Council is starting

to realize, because of our continuous efforts, that cooperative and condominium housing is different from rental housing in that it is a form of "homeownership." An example of this new awareness, and the success of our lobbying, is the new lead paint bill that exempts cooperative and condominium owner-occupied units.

In support of the above, the Federation is working at carving an exception for cooperatives and condominiums in the new "pet bill." This bill allows a resident to replace a dead pet, regardless of any restrictions. Many co-ops and condos have existing "pet rules" and the Federation is supporting their rights to self-determination.

The Federation continues to effectuate and encourage all levels of government that cooperatives and condominiums are a form of "affordable home ownership." We support the licensing of property managers for cooperatives and condominiums. In addition, we insist that any legislation mandating the provision of services to tenants or the regulating of quality of life issues treat housing cooperatives and condominiums as it does single-family homeowners.

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Another exemption the Federation is promoting is that any renovation or construction work done in individual apartments cannot be subject to a mechanic's lien on the building or cooperative corporation.

On the federal level, with the participation of our national partner, the National Association of Housing Cooperatives (NAHC), we are supporting the modification of the 80/20 rule to be less restrictive and to allow more "good income." We support the revival of the "Section 213" affordable housing program, a program that many of our member buildings started as and to extend the veteran's mortgage program to include cooperative shareholders as "homeowners."

In Albany, now that the budget is almost completed, they have time to tinker with our lives! The Federation is watching bills such as one that would require boards to give reasons for not accepting a resale application; a bill that would exempt cooperative and condominium board members from criminal liability for building and multiple dwelling law violations except where they had knowledge; a bill that would require applications to purchase condomini-

(continued on next page)

um units or cooperative shares to be acted upon within ninety days, failure to do so would result in automatic approval; a bill that would establish a residential cooperative and condominium owner's bill of rights and bills relating to provisions governing the conversion of rental dwellings to cooperative apartments and condominiums.

The Federation is working with the mayor's office on the new building code and developing a city energy policy consistent with economic and environmental objectives that encourages consumer responses to power emergencies. The Federation sits on the Department of Finance's "Advisory Committee."

As you can see we are working diligently on your behalf. The Federation is your advocate, acting as a watchdog for its membership. We rely on your membership dollars to sustain the Federation in these pursuits. Please continue your invaluable support by pledging your membership today! Enjoy the spring and I

**SPONSORSHIPS AND ADVERTISING RATES
FOR FEDERATION EDUCATIONAL CONFERENCE MANUAL**

On Saturday, June 11, 2005 the Federation of New York Housing Cooperatives and Condominiums will host a one-day Educational Conference at the LaGuardia Marriott. Thirteen essential seminars for board members and concerned cooperators and condominium owners will be presented by experts in their respective fields. A reference manual will be distributed to each attendee. This manual will include summaries of the presentations written by each of the panelists participating in the conference and important information and regulatory forms geared to this audience. The manual will also be distributed at the BuildingsNY show later in the month.

hope to see you on June 11th.

ADVERTISING RATES

FULL PAGE	\$450
1/2 PAGE	\$300
1/4 PAGE	\$200
1/8 PAGE (BC)	\$100

**CONTACT DONNA KLEIN
212-977-4366**

Deadline for ads is May 11th

SPONSORSHIPS

Lanyards (SOLD)	\$750 + cost of lanyards
Badges	\$750 + cost of badges
Manual	\$1000 includes full page ad
Seminar Room	\$750
Breakfast	\$500
Lunch	\$1000
Parking	\$750

FNYHC MEMBERSHIP APPLICATION

Regular Membership (co-op or condo) \$3.00* per unit

(max. \$900/300 units or more; min. \$50/20 units or less)

***PLUS \$1 per unit for National Association of Housing Cooperatives (NAHC) membership**

Associate Membership \$500

Co-op [] Condo []

Associate []

of units _____

Name: _____

Contact: _____

Address: _____

City: _____ State _____ Zip _____

Phone: _____

Email: _____

*Make checks payable to: Federation of NY Housing Cooperatives & Condominiums,
61-20 Grand Central Parkway, Forest Hills, NY 11375*

PRESIDENT'S MESSAGE

**By Albert F. Pennisi,
Pennisi Daniels Norelli**

It is my pleasure to invite, not only the members of the Federation of New York Housing Cooperatives and Condominiums, but cooperative and condominium board members and residents from all over the city, to our second annual educational conference. This year's conference will be held on Saturday, June 11th, 2005 at the LaGuardia Marriott from 9 AM to 5 PM.

Volunteering to be part of a cooperative or condominium board of directors is a noble gesture. The job, and make no doubt about it...it is a job, takes away from family time, wreaks havoc with vacation schedules, makes your neighbors look at you suspiciously, etc. etc. Unfortunately, many well-intentioned volunteers have no idea what they are getting themselves into when they sit down at their first board meeting. Little do they know, that even some veteran members of the board have limited knowledge and are hanging on by their bootstraps!

That is why the Federation initiated this all day conference. Our mission is to keep our membership informed of the latest city, state and federal legislation, benefits and technology available to our community. Along with this newsletter, our website (fnyhc.coop), mailings, seminars and presence at industry tradeshows, this conference is the most comprehensive educational forum we provide.

There is no educational course or college program you can enroll in to become a better board member. There is no degree or certification bestowed. But if you have a real concern about the place you live, a desire



to help your neighbors, an ability to tactfully communicate and a willingness to learn you are prime board material and a candidate for the Federation's conference.

This year we are presenting thirteen (13) highly informative seminars led by professionals in their respective fields. The admission fee is nominal, only \$50 for Federation and CNYC members (and we give you lunch!), so I encourage you to attend, learn and take back to your properties

the benefits of your visit.

Just last year two new cases involving eviction proceedings brought against shareholders accused of misconduct were decided. Geoffrey Mazel, Hankin Handwerker & Mazel writes a very interesting case study (page ?) citing Pullman and Levandusky. It is important to remember that while a cooperative may have the power to terminate a tenant-shareholder's tenancy for objectionable conduct, the power to do so must be set forth clearly in the proprietary lease, the tenant-shareholder must be given proper notice of the charges and the basis for the termination that her/his conduct is objectionable, the action must be exercised by the cooperative in good faith and the exercise of honest judgment in furtherance of the corporate purposes must be upheld.

For further information and clarification on these and other court cases, please attend my seminar, The Business Judgment Rule, at the conference from 10:30-11:45 AM. I look forward to seeing you there.



National Association of Housing Cooperatives
2005 Annual Conference

September 14-17, 2005
The Westin Crown Center
Kansas City, Missouri



READY DESIGN

By Marilyn Sygrove,
Sygrove Associates Design
Group

Sygrove Associates Design Group, Inc., specialists in residential hallway and lobby design for over 20 years, has been identifying hallway trends for two decades. These trends have run the gambit in terms of colors, styles and pattern preferences. Most interesting, are the trends that have developed as to how involved boards of directors wish to be in their interior design projects.

Currently, we are seeing a trend in many buildings to “do it yourself.” In the past “do it yourself” meant a board member would run around town collecting samples in hopes of getting his or her neighbors to agree on a design scheme. “What will it look like?” is what they were faced with as they looked at tiny swatches of carpet and wall covering materials. This policy can be dangerous, not only politically, but financially as well. Buildings do not have deep pockets to do such a large scope project over again if they don’t get it right the first time!

Today, Team Sygrove (as we like to refer to ourselves) has developed a way to accommodate this trend. **READY DESIGNS**, the newest brainchild of the firm, is an exciting line of pre-designed hallway decorating packages that includes carpet, wall coverings, lights, consoles and mirrors – all the components of a typical hallway project. **READY DESIGNS** may be purchased as a complete package (full hallway scheme) or as individual components. **READY DESIGN** consists of modern classic schemes custom-designed to

reflect a wide variety of tastes – from cutting-edge modern designs to safer, more universal traditional designs.

Quality is the unifying theme in all our designs. Every material is selected for maximum coverage, durability and ease of maintenance.

It is simple to select and coor-

your contractors, building superintendent, or management company does the rest! Your costs are contractor-direct prices based on the quantity ordered. The more you purchase, the more you save. **READY DESIGN** will advise you on lead times and delivery dates so that you can coordi-



dinate a hallway decoration from the presentation boards that show samples and computer-generated color renderings for each package. Each of the selections of carpet, wall covering, lighting, paint colors, consoles and mirror samples are pre-coordinated. Samples are displayed on a presentation board with labels identifying each item. A color rendering of that scheme is also on the presentation board so that you see how the pieces visually work together in your hallway. The materials are designed to be used together, but they can be purchased individually.

So how does this work? Simple. After you’ve made your decision on color, style, etc. we ship the materials direct to your building and

nate storage space and start dates for the work. It’s easy, foolproof and the most cost-effective means of redecorating and refreshing your building’s hallways.

For more information please contact: Melissa Bissman
Sygrove Associates Design Group
(212) 757-0631

***Don't miss the Federation's
Second Annual Educational
Conference on Saturday,
June 11, 2005.
For seminars, registration
information and location
see pages 6 and 7.***

**BUSINESS CARD AND DISPLAY ADVERTISING IS NOW
BEING ACCEPTED IN THE FEDERATION NEWSLETTER**

**PLEASE CALL MONA SHYMAN
FOR RATES AND AVAILABILITY**

718-423-4438

The Courts, Boards and Shareholder Misconduct

By Geoffrey Mazel, Hankin Handwerker & Mazel

In the past several years, several significant cases have been decided directly impacting the cooperative corporations' rights to terminate a shareholders' lease and eject him for "objectionable" conduct. It is still too soon to realize the full impact of these cases but, this article will attempt to analyze the effects these cases have had on cooperative boards and management today.

The most significant case, and probably the most publicized, was decided nearly two years ago by the Court of Appeals in the matter of *40 West 67th Street v. David Pullman* (hereinafter referred to as "Pullman"). In the Pullman case, the cooperative's board of directors brought an action against a shareholder seeking to eject the shareholder and recover possession based upon his "objectionable" conduct.

In 1998, David Pullman bought a cooperative unit at 40 West 67th Street, Manhattan. Immediately after moving in, Mr. Pullman engaged in a course of conduct that was viewed by the board and many shareholders as disruptive and intolerable.

Initially, Mr. Pullman complained incessantly about his upstairs neighbors who were elderly. The upstairs neighbors were a college professor and his wife who had occupied their apartment for twenty (20) years without incident. Among other things, Mr. Pullman accused his neighbors of the following: playing their television and stereo loudly into the night, cutting Mr. Pullman's telephone lines, running an illegal book-binding business in their apartment and storing toxic chemicals in their apartment. Upon investigation, the board found all these allegations not only to be untrue, but these shareholders did not even own a television or stereo!

Subsequently, Mr. Pullman had a phys-

ical altercation with the retired professor and distributed a flyer to the cooperative residents in which he referred to the professor as "a psychopath in our midst." In another flyer, Mr. Pullman accused the board president and the professor's wife of having close intimate relations. In addition, Mr. Pullman wrote a stream of letters to the board making these complaints.

Furthermore, Mr. Pullman made alterations to his apartment without board approval and had the work performed on a weekend in violation of board rules. He would not respond to the board request to correct these violations or to allow an inspection of the apartment.

Finally, Mr. Pullman commenced four lawsuits against his upstairs neighbor, the corporation president and the managing agent and attempted to initiate three more.

In response to this litany of intolerable behavior, the board of directors called a special meeting of the shareholders in an attempt to terminate Mr. Pullman's tenancy based on his "objectionable" conduct, which was in direct violation of the terms of the proprietary lease. The resolution, held in accordance with the corporation by-laws, passed by over 75 per cent majority vote of the shareholders.

This matter was litigated all the way to the New York State Court of Appeals, the highest court in the state. Their landmark decision, rendered on May 13, 2003 upheld the cooperative's shareholder resolution to terminate the tenancy of Mr. Pullman.

It is important to note, the court found the cooperative must follow very specif-

ic guidelines when terminating a shareholder's proprietary lease. First, the proprietary lease must have a specific provision allowing for shareholder termination based upon "objectionable conduct." Second, the cooperative must unflinchingly follow their own procedures as specified in their by-laws. This will most likely mean that a special shareholder meeting will be called and the issues will be deliberated in an open meeting. Proper notice of this meeting must be given to all shareholders, again in accordance with the rules. In addition, the vote will usually require a "supermajority" to pass. Many by-laws will require the approval of between 66 and 75 per cent of the shareholders to terminate a shareholder's proprietary lease. Therefore, a thorough review of the proprietary lease and by-laws is critical in order to determine whether a cooperative corporation has a "Pullman" situation. It is strongly suggested that you have your corporate attorney review these documents and counsel you during this process.

These guidelines lead us to a discussion on the second case involving shareholder termination for objectionable conduct. This case, known as *13315 Owners Corp. v. Kennedy*, was decided by Judge Gerald Lebovits, Civil Court, New York County on June 29, 2004. In this case the board voted to terminate the shareholder's lease, based on the shareholder's conduct, which included unauthorized repairs and a drug arrest.

The Kennedy case is different from the Pullman case because the termination was based on a board vote, NOT a share-
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**FEDERATION OF NEW YORK HOUSING
COOPERATIVES & CONDOMINIUMS**

INVITES YOU TO AN ALL DAY EDUCATIONAL CONFERENCE

**SATURDAY
JUNE 11, 2005
9 am - 5 pm**

LAGUARDIA MARRIOTT

**102-05 DITMARS BOULEVARD
EAST ELMHURST, QUEENS**

MORNING SESSION

**LOCAL LAW 11
9-11 AM**

The latest phase of Local Law 11, the building facade inspection law, went into effect in February, 2005. This panel will explain what your responsibilities are and guide you through the process of inspection and reporting requirements.

**Panel: DOB Deputy
Commissioner Ron McCain and
Howard Zimmerman, H.
Zimmerman Architects**

**FINANCIAL
9-11 AM**

Probably the most important responsibility of a co-op or condo board of directors is their fiduciary duty. This seminar will focus on the rise of tax assessments, estate planning, how to fund reserves, balancing your operating budget and controlling costs.

**Panel: DOF Commissioner
Martha E. Stark; Richard
Montanye, Marin & Montanye;
Mark Shernicoff, Zucker &
Shernicoff and ERic Weiss,
Tuchman Katz Schwartz Gelles
Korngold & Weiss**

**ARE YOUR ASSETS
COVERED?
9-10:15 AM**

The cooperative corporation has liability and property insurance but that doesn't cover individual unit possessions. This seminar will assist you in educating your residents as to their responsibilities.

**Panel: Robert Mackoul,
Mackoul & Associates and Jay
Fingerman, AKAM Associates**

**BUSINESS JUDGMENT
RULE**

10:30-11:45 AM

A board of directors must make decisions in accordance with certain guidelines, one being the business judgment rule. This seminar will describe how this rule has been applied in certain high profile cases.

**Panel: Albert Pennisi, Pennisi
Daniels Norelli**

AGING IN PLACE

11:15 AM - 12:30 PM

Nearly every property in the city is facing the dilemma of an aging population. Unfortunately, many problems can arise that may affect the entire building. There are support services available. This seminar will help you improve the quality of life of your senior residents as well as the general populace.

**Panel: Brendan Keany, Penn
South Houses and Freda
Vladeck, Aging in Place
Initiatives at United Hospital
Fund**

**BOARD/MANAGEMENT
RELATIONS**

11:15 AM - 12:30 PM

In order to run the corporation properly both board and management need to work together. This panel of professionals will give you the tools to detect and protect against fraud, assign responsibilities, establish chain of command and run a well-structured board meeting.

**Panel: Doug Kleine, NAHC;
Howard Schechter, Schechter
& Brucker and Jay Fingerman,
AKAM Associates**

**LUNCH
12-1 PM**

*Lunch is included with
all-day ticket purchase*

**Panelist subject to change*

**ATTORNEY'S ROUND-
TABLE
12:45-2:45 PM**

Free Legal Advice!

Panel: Ron Gold, Kagan Lubic Lepper Lewis &Gold; Paul Korngold, Tuchman Katz Schwartz Gelles Korngold & Weiss; Al Pennisi, Pennisi Daniels Norelli; Gil Santa Marina, Santa Marina & Associates; Geoffrey Mazel, Hankin Handwerker Mazel and Howard Schechter, Schechter & Brucker

AFTERNOON SESSION

**HIGH RISE EVACUATION &
EMERGENCY PROCEDURES
12:45-2:45 PM**

If there were a fire, gas leak or flood in your building are you, your staff and residents prepared? Any one of a dozen events can turn into a major catastrophe if your staff isn't trained and your residents unaware of simple safety procedures. This is a must attend seminar.

Panel: Representatives from NYFD, Auxiliary Police and Community Emergency Response Team

**EFFECTIVE PREVENTIVE
MAINTENANCE
12:45-2 PM**

How to plan for the unexpected, reserves vs. operating expenses, assessable improvements, does it pay to borrow and more. Learn how to plan ahead.

Panel: Lynn Whiting, The Argo Corporation and David Kuperberg, Cooper Square Realty

**ENERGY
2:15-3:30 PM**

In most cases your utility bill is the third largest line item in the budget. This panel will demonstrate how to bring down your electricity cost with little to no out of pocket expense.

Panel: Lewis Kwit, EIS and Greg Carlson, Carlson Realty

**REGULATORY/LEGISLA-
TIVE INCENTIVES FOR CO-
OPS & CONDOS
3-5 pm**

Are all the anagrams getting you down: NYSERDA, J51, STAR, etc? This seminar will not only explain what incentives are available to your community but we'll give you the forms, websites and necessary info to take back to your neighbors.

Panel: Paul Korngold, Tuchman Katz etal and David Baron, Metro Management Development

**LEGISLATIVE ALERTS
& LEGAL UPDATES
3-5 PM**

The Federation prides itself on keeping up to date on the latest federal, state and city legislation that affects our community. In addition, court cases are decided every day that impact how we run our corporations. The panelists will bring you up to speed and make sure you're in compliance.

Panel: Mary Ann Rothman, Council of NY Cooperatives; Doug Kleine, NAHC and Al Pennisi, Pennisi Daniels Norelli

**BOARD/RESIDENT RELATIONS
3:45-5 PM**

You wear two hats. You're a resident of a building but also have the responsibility of running the corporation. How do you balance the two? Your neighbors view you as "the enemy" but you have a duty to the greater good. Hear from a panel of board members on how to be a good neighbor and board member.

Panel: Chuck Robbins, North Shore Towers; Al Volpe, Berkley Towers #2; Harvey Rubin, Kissena #2; Mona Shyman, Towers at Water's Edge and Ron Gold, Kagan Lubic etal

FNYHC EDUCATIONAL CONFERENCE REGISTRATION FORM

NAME _____

BUILDING/PROPERTY _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

EMAIL _____

ALL DAY TICKET (includes lunch): \$50 MEMBERS [] \$100 NON-MEMBERS []

AM TICKET: \$35 MEMBERS [] NON-MEMBERS \$75 []

PM TICKET: \$35 MEMBERS [] NON-MEMBERS \$75 []



61-20 Grand Central Parkway
Forest Hills, NY 11375

TO:

Phone: 718-760-7540
Fax: 718-699-5618
email: info@fnyhc.coop

VISIT OUR WEBSITE
www.fnyhc.coop

Shareholder Conduct *(continued from page 5)*

holder vote. The judge in this case failed to allow the board's termination, due to the fact that the board was not elected in a properly held shareholder election. Accordingly, as the Pullman case stated, the board must unfailingly follow their own procedures as specified in their by-laws when terminating a shareholder for objectionable conduct.

Most recently, Judge Lebovits once again dropped a bombshell on the legal community in a case decided on December 6, 2004 known as *London Terrace Tower Inc. v Michael Davis*, Civil Court, New York County. This case also involved a board's attempt to terminate a shareholder's proprietary lease based on objectionable conduct. In this

case the shareholder engaged in a course of bad conduct for over eleven (11) years including: repeatedly locking himself out of his apartment, requiring cooperative staff assistance two to four times a month; spray painting his furniture in the hallway; experiencing two fires in his apartment; fighting with guests in his apartment and leaving syringes in the drainpipes causing a clog.

In this instance the board properly followed their by-laws and procedures. They called a special meeting at which time the shareholder was given an opportunity to respond to the allegations. The court ultimately found that the board acted properly and upheld the board termination of the shareholder's proprietary lease. The judge in this case has taken the Pullman decision one step further and

has upheld a board termination.

At this point the London Terrace decision has not been heard on appeal, and can only be considered "persuasive authority." However, if this trend continues, the courts will have greatly broadened the authority of boards when dealing with shareholders who violate their proprietary lease and engage in a course of objectionable conduct.

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DON'T MISS OUT ON THE MOST IMPORTANT EDUCATIONAL EVENT THIS YEAR

FEDERATION OF NY HOUSING COOPERATIVES PRESENTS ITS ANNUAL CONFERENCE

13 SEMINARS

ONE DAY

SATURDAY, JUNE 11, 2005

LAGUARDIA MARRIOTT

PROGRAM AND REGISTRATION INFORMATION ON PAGES 6-7