

One Minute Memo®



Requests for Reasonable Accommodations from NYC Co-Op and Condo Residents Likely to Grow

By Dennis H. Greenstein and John W. Egan

The following alert is directed at property owners and managing agents of co-op and condominium buildings in New York City.

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Demographic Shift Means More Requests for Reasonable Accommodations from Co-Op and Condo Residents in New York City

We periodically advise property owners and managers of trends that we see and how they impact the management and operation of real property. Over the past year, we have observed an increase in requests by residents with disabilities to install permanent ramps or lifts at building entrances, with co-op and condominium boards seeking guidance on their obligations and how best to respond to these requests. As more and more New Yorkers are deciding to remain City residents as they grow older, it is likely that the number of requests for accommodations will only increase in the years to come.

Housing Providers Must Provide Reasonable Accommodations to Residents with Disabilities

Co-ops and condos must make "reasonable accommodations" to enable a person with a disability to enjoy the rights and privileges of their apartment and the building's common areas. Courts have interpreted the New York City Human Rights Law to require that housing providers pay for structural modifications to entrances and common areas when these modifications qualify as a reasonable accommodation. A resident who ambulates with a wheelchair or scooter, for example, may request that permanent ramps or lifts be installed at the entrance or lobby.

Responding to these requests may prove challenging to board members of co-ops and condos who must consider the interests of the resident with the disability, budgetary considerations, and concerns expressed by other residents or shareholders. For example, as with many other construction projects, residents may express concerns to the board regarding the cost of project, how it may impact property values, the timeframe for construction, and whether the project is necessary.

The co-op or condo must provide a reasonable accommodation unless it imposes an “undue hardship.” The housing provider has the burden of proof under the New York City Human Rights Law to demonstrate that any requested modification would constitute an undue hardship. What constitutes a reasonable accommodation (and by extension an undue hardship) depends on the facts of each case, although courts generally examine and balance factors such as (1) the interest of the resident with a disability in obtaining access, (2) the cost of the proposed accommodation, and (3) the financial resources of the housing provider. The owner, lessor, and/or managing agent may be held liable for monetary damages and penalties for failing to provide a reasonable accommodation.

Best Practices in Responding to a Request for a Reasonable Accommodation

Condo and co-op boards should respond promptly to requests for accommodations by residents with disabilities. Since requests require consultation with professionals, the initial response may be to inform the resident of the status of the request. Managing agents must immediately advise the board of these requests whether they are in writing or oral and no matter how informal the request may seem. Boards should engage the necessary resources to properly evaluate the request and investigate options. If necessary, they should hire design and construction professionals familiar with accessibility requirements. In addition, boards should consider retaining experienced legal counsel to evaluate accessibility options and communicate with enforcement agencies.

Dennis H. Greenstein is a partner in Seyfarth’s New York office and *John W. Egan* is an associate in the firm’s New York office. If you would like further information, please contact your Seyfarth attorney with whom you work, Dennis H. Greenstein at dgreenstein@seyfarth.com or John W. Egan at jegan@seyfarth.com.

www.seyfarth.com

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Seyfarth Shaw LLP One Minute Memo® | August 13, 2014

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