A look at tenants' rights in a condo conversion

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Q. I have questions about my rights as a tenant in a building that is being converted to condominium.

The building was sold several months ago and the new owners have apparently begun the conversion process. Tenants have received notices that the new owner will not renew their lease. My lease will end later this year. I have never received a notice that I hear we are supposed to be given, informing us of the conversion.

There are only a few tenants left in the building and the owner has not offered us any compensation for moving. What are my options at this point? I have spoken with many agencies who have said that it is illegal for a condominium conversion to be in process while tenants are still present in the building. There is also a copy of a repair and replacement permit on the door of the building. Do I have grounds for a lawsuit?

A. A property owner may convert a building to condominium while tenants are still in possession of their apartments. Tenants in conversion buildings have certain limited rights under the Illinois Condominium Property Act and local ordinances, such as the Chicago Condominium Ordinance.

A tenant in a building undergoing conversion must receive a notice of intent from the property owner, who is now the developer, to convert the building. The notice must be given to tenants no less than 30 days and no more than one year before the developer records a condominium declaration. Recording a declaration creates the condominium.

The notice of intent will advise the tenant whether the developer will renew or terminate the lease; includes a schedule of selling prices for all units; and offers to sell the unit to the tenant, unless the unit must be vacated for rehabilitation.

Tenants whose leases expire before 120 days from the date they receive the notice, may extend the tenancy for the full 120-day period by written notice to the developer. If you are over 65 or handicapped and live in the City of Chicago, you are entitled to this extension for 180 days.

Within the same 120-day period after the notice of intent, all tenants have a right to buy their units on the same terms and conditions as an existing contract. Thus, you will have two opportunities to buy your unit: first within 30 days after the notice of intent and, second, within 120 days by matching an existing contract offer. If you choose not to buy, the developer may show your apartment to a prospective purchaser a reasonable number of times and at appropriate hours during the last 90 days of your lease.

Q. I live in a condominium association that is also part of a planned community. The

homeowners association maintains certain recreational facilities and common areas in our property.

The property manager for the homeowners association presented a proposal to serve as the condominium property manager and was hired. The same staff now serves both associations. I thought that condominium matters would be handled according to our association rules and regulations. Our governing documents clearly state that the condominium and homeowners associations are separate entities.

The staff apparently considers the condominium a charter club under the jurisdiction of the homeowners association as a master association. There are two serious consequences to this approach. Our assessment checks, which are made out to the condo association, are deposited in the homeowners association account and then transferred to a condo account. Also, the homeowners association and the condo association are named as the insured on the single property and liability insurance policy.

The board relies upon the management staff to act correctly. Are they?

A. I do not share all of your concerns. The homeowners association is a master association, because it administers property used by one or more condominium associations. It is more efficient for your development to have one property management firm administer all associations within the complex.

It is not unusual for a homeowners association to collect assessments for both the condominium and master association. If management has properly accounted for income and expenses under the condominium budget, their financial procedures do not violate the law.

The insurance problem is puzzling if you have correctly read the policies. The homeowners association and condominium association can be insured by the same company. Each entity may be an additional insured on policies covering the common elements of the condominium association and the common area of the master association. These entities, however, do insure different portions of the property and there should be separate policies for each.

Q. Since I closed on the purchase of my condominium, billings to my unit have been a mess.

When I first closed, I was advised by the seller and property manager that my assessments would be $450 per month. Last December, I was advised by the manager that there would be a 15 percent increase in 2005 to bring my assessments up to $523 per month.

This past February, the property manager told me that a recent audit of the association books revealed a mistake in monthly assessments for my unit both for 2004 and 2005. I was charged an additional sum for incorrect billings in 2004, because those charges did not reflect a 15 percent increase that went into effect as of Jan. 1, 2004. My 2005 assessments did not reflect a 15 percent increase that went into effect on Jan. 1, 2005.

Am I obligated to pay shortages for both years claimed by the property manager? Is my

seller responsible for the obligation I am now charged with paying for 2004?

A. Your characterization is accurate. You are not obligated to pay the billing for the 2004 deficiency, but you are responsible to pay the 2005 increase. More importantly, the condominium board should review management's performance for assessment billings, which is a major management function.

Owners are required to pay assessments charged by the budget or a special assessment. The notice in 2005 for changes to a 2004 assessment were given after the 2004 fiscal year.

Regardless of whether the association can charge you for increases in 2004 assessments, presumably the association is short of funds, which it will have to make up in the 2005 budget.

The 2005 increase relates back to Jan. 1 of this year and can be done if the board revises the budget.

You do not have a claim against your seller. Unless this individual received a different notice, both of you relied upon information given to you by management.

Q. Our board has made decisions regarding certain expenditures as well as special assessments that should have been discussed at an open board meeting. After a recent special assessment was levied, I challenged it and a meeting was promptly called.

Can you refer me to the specific statute in the Condominium Property Act that governs board meetings?

A. Section 18(a)(9) of the Illinois Condominium Property Act states clearly that all meetings of the board of directors are open to the membership except for portions of the meeting held to discuss assessment delinquencies, rule violations, employment matters and threatened or pending litigation.

Any other subjects must be discussed at an open meeting.

Section 1(w) of the Condominium Act defines a meeting of the board of directors as a gathering of a quorum to conduct board business. Board members may gather as a group to discuss matters, but do not conduct business unless they vote on subjects. The more frequently a board has these discussions, the more suspicious owners become that directors are making decisions behind closed doors.

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