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Multiple Occupants Create Many Problems

Stephen Lasser · Wednesday, July 24th, 2013

Some situations might be more acceptable to condo boards (and neighbors) than others, depending upon the community, Stephen M. Lasser, Esq., a partner with the Manhattan-based law firm of Barton LLP, says.

“Temporary situations such as relatives living with other relatives during a period of unemployment or while they are searching for other housing is more acceptable,” Lasser says.

An inordinate number of residents in a unit or units also can create tension among neighbors because residents pay for utilities like water as a common expense. If a few apartments seem to be using more than their fair share of the water, people could get justifiably angry.

Local municipalities usually have occupancy restrictions that are determined by the square footage in the unit. But often, a condo or co-op community’s occupancy restrictions are written into the condominium’s governing documents.

Legal occupancy limits are determined for a dwelling unit with two ends in mind: To comply with existing occupancy restrictions of the municipality in which the community is based and to fit the needs of the co-op/condo community’s residents.

These limits differ among municipalities, since some urban municipalities may allow higher numbers of people living in smaller units, and some suburban communities may have stricter regulations on how many folks can live in a condo unit or apartment.

Condos and HOAs can impose occupancy limits that differ from the city or town’s limits, as long as they comply with existing laws. This means boards of such communities can choose to be stricter about how many people can live in a unit than the municipal law stipulates. Generally speaking, municipal laws state that no more than two people can live in a one-bedroom apartment, and no more than four people can live in a two-bedroom apartment; i.e., two people per bedroom, tops.

“The law In New York City is quite generous and permits one person per eighty square feet,” Lasser says. “In the event a unit owner violates the applicable local law, the board could impose fines or sue the owner and occupants for injunctive relief to compel their compliance with the law. “However,” he continues, “because there is no landlord-tenant relationship between a condominium association and its unit owners, the board will not be able to start an eviction proceeding in housing court. In addition, the local government agency with jurisdiction over

housing code enforcement may have to determine that the local law is being violated before a court will consider the condominium's claim to be ripe for judicial intervention." Download PDF

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