

## REAL ESTATE

## Q &amp; A

By JAY ROMANO NOV. 18, 2010

**Equal Treatment for All Shareholders**

*Q Are sponsors of co-op conversions exempt from paying maintenance fees for apartments they own and rent out?*

**A** Dennis H. Greenstein, a Manhattan co-op and condominium lawyer, says that co-op sponsors are required to pay maintenance charges for their unsold apartments, whether or not the apartments are rented out. “This is a requirement of the attorney general’s regulations and a standard provision in proprietary leases,” Mr. Greenstein said. If the proprietary lease exempted the sponsor from paying maintenance, the exemption would be a violation of those regulations, he said. In addition, the state’s business corporation law requires all co-op shareholders to be treated equally. So if the sponsor did not have to pay maintenance on his shares, while others did, it would most likely be a violation of that law.

**The Rules for Capital Gains**

*Q I’ve been trying with no luck to sell the house that I have lived in for the last 18 years. If I buy another house and sell my old house sometime later, will I still qualify for the capital-gains tax exclusion?*

**A** Martin B. Miller, a Manhattan tax lawyer, said that under current law, a seller who has owned and used a home as his or her principal residence for two of the five

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maximum is \$500,000.) Mr. Miller noted that the periods of ownership and residence do not have to be concurrent. So as long as the writer sells his old home within three years of moving out of it, he should qualify.

### Distributing Co-op Bylaws

**Q** *When we asked our co-op managing agent for a copy of the co-op bylaws, he said that we could review them in the office but that he would not distribute them. Do we have a right to our own copy?*

**A** “Co-op shareholders have limited rights to review or receive copies of corporate records and documents,” said Stephen M. Lasser, a Manhattan co-op and condo lawyer. “But there is no legal requirement that copies of bylaws be provided to shareholders.” Mr. Lasser says the only corporate record that a co-op is required to provide to shareholders is the annual financial statement. In most co-ops the managing agent will give shareholders copies of bylaws on request. Or the writer could try asking a member of the co-op’s board of directors for a copy. He notes that the buyer’s lawyer usually gets a copy of the bylaws when a co-op is bought, and might still have the copy on hand. Mr. Lasser added, however, that getting a current copy might be best, because the bylaws may have been amended since the writer bought the apartment.

### When a Church Becomes a Landlord

**Q** *My rent-stabilized building was bought by a church. Do stabilization laws still apply?*

**A** “The writer’s rent-stabilization rights continue even though the property was purchased by a church,” said David Kaminsky, a Manhattan real estate lawyer. He said the only way a change of ownership could result in the deregulation of an apartment was if the new owner was a federal, state or local government entity.

Email questions to [realestateqa@nytimes.com](mailto:realestateqa@nytimes.com). Answers can be given only through the column. A version of this article appears in print on November 21, 2010, on Page RE9 of the New York edition with the headline: Q & A.

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