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Q & A

Cigarettes Landing on A Terrace

Q I recently purchased a 24th-floor condominium with an open terrace in a 40-story high-rise. Since moving in, I have been subjected to cigarettes, including unextinguished ones, matches, pot-smoking paraphernalia and other garbage being dropped from a higher floor onto my terrace. I have complained several times; first to the super, then to the management representative, and finally to the president of the board. I was promised months ago that a letter would go out to residents, but I have not seen such a letter, if one was sent, and there has been no improvement. Whose responsibility is it to take action? What is the law and what are my rights? Should I take legal action or call the police? ... James H. Rubin, Manhattan.

A Eric P. Gonchar, a Manhattan lawyer who specializes in co-op and condominium law, said that most buildings have house rules that govern the behavior of unit owners. Most house rules, Mr. Gonchar said, state that nothing shall be discarded from the windows or balconies of apartments, and most provide that violation of the rules give the board the right to take appropriate legal action against the violator. The problem here, however, is that the identity of the perpetrator is unknown.

"At the very least the board should send out a letter to the unit owners advising them of the problem," Mr. Gonchar said. "It is an essential first step, and if the board doesn't take that step, then the board itself can be held accountable."

If the letter doesn't alleviate the problem, Mr. Gonchar said, then perhaps personal visits by building personnel to the apartments above the letter writer's apartments might help to make those unit owners aware of the seriousness of the situation.

If the problem persists, and the co-op is unable to identify the source despite good-faith efforts to do so, Mr. Gonchar said, it is unlikely that even the police would be able to take any action without additional information.

And the best source of such information, Mr. Gonchar said, may be the letter writer himself. "He may have no choice but to go out on his terrace and stand vigil," he said. "That's the only possible way of finding out where the stuff is coming from."