

The New York Times

Real Estate

Sunday, January 30, 2005

A Flip Tax in a Co-op

Q My co-op board is implementing a flip tax of 1 percent of an apartment's sale price. The board says it can do this without shareholder approval because a flip tax already exists and it is only increasing the amount. The old fee was \$1 per share. My proprietary lease mentions only a "fee of transfer" and defines it as a reasonable fee to cover the expenses of the transfer, not as a source of income for the co-op. Can they do this? ...
Teddy Blauvelt, Brooklyn.

A Eric P. Gonchar, a Manhattan co-op lawyer, said that for a co-op to impose a flip tax, the co-op's governing documents must provide the authority.

Some proprietary leases, Mr. Gonchar said, allow the co-op to impose a transfer fee to cover administrative expenses of a sale. And it would not be unreasonable, he said,

for such a fee — which is not a flip tax — to range from \$250 to \$1,000.

A fee equal to 1 percent of the sales price of an apartment, however, appears to be more like a flip tax than an administrative fee. So, Mr. Gonchar said, the co-op's governing documents should be examined to determine whether they specifically allow the collection of a flip tax and, if so, whether the documents permit the board to increase the amount without a shareholder vote.

Address questions to Real Estate Q&A, The New York Times, 229 West 43rd Street, New York, N.Y. 10036, or by e-mail to realestateqa@nytimes.com. Answers can be given only through the column. Please include name, address and daytime telephone. Names of letter writers will be used after printed questions.