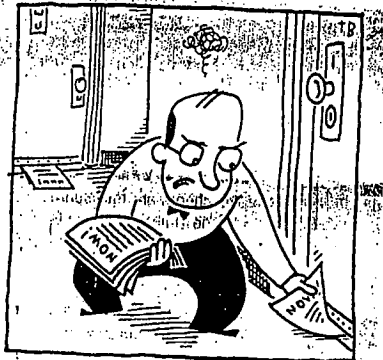


Real Estate

YOUR HOME

Making Dissenters' Voices Heard

By JAY ROMANO



Tom Bloom

When complaints are genuine, a reasoned, businesslike approach usually works best.

WHETHER a co-op building has six apartments or 600, one thing is fairly certain: there will rarely be a time when there isn't at least one shareholder who believes that the building could be run better by someone else. And while the naysayers may be wrong at least as often as they are right, there are ways for dissatisfied owners to ensure that their voices are heard and their votes are counted.

"I estimate that about 10 to 15 percent or more of every shareholder body is made up of natural-born dissenters," said Arthur Davis, whose Manhattan management consulting company, bearing his name, specializes in advising co-ops. "Most of those people wouldn't appreciate the way their board was performing even if it were run by the most caring, communicative and capable managers on earth."

Such dissenters, Mr. Davis said, can become an "inflammatory and chronically divisive presence" in a building.

But in addition to the natural-born dissenters, Mr. Davis said, there is often another group of shareholders who express their dissatisfaction with the status quo in more measured terms.

The other class of dissenting shareholders are mostly circumspect owners who feel their board is not representing the best interests of the majority of the shareholders, Mr. Davis said. "And generally speaking, such shareholders are actively pursuing prudent ways to either influence the directors or change the makeup of the board."

He added that while the demands of "the natural-born dissenters" are often exaggerated and difficult to satisfy, the more circumspect dissenters often raise issues that have workable solutions.

He advises any group of dissatisfied shareholders to take a strategic, businesslike approach to achieve objectives.

"Whether we're talking about three people or 33 people, the first thing I would do is get everybody to sit down and summarize their

issues and their complaints," Mr. Davis said, explaining that the simple act of articulating complaints — and then committing them to writing — often serves to separate legitimate issues from those that might be consigned to the nitpicking category.

"The next thing I would do is send a memo to the board president stating the problems and proposing possible solutions," he said. "If an answer is not forthcoming, or if the answer given is unreasonable, then I would send the memo to every member of the board asking them to sit down with two or three of the complaining shareholders to see if a solution can be worked out."

If that fails, Mr. Davis said, the dissenting shareholders have no option but to attempt to rally the support of other shareholders in the building by sending the memo to each of them and asking for their input.

"This is the tricky part," he said. "You might have a dedicated board doing what they truly believe is the right thing to do, and the other shareholders might think the dissenters are just nitpicking."

Robert Grant, the president of Diversified Property Management in Brooklyn, said that dissenting shareholders whose complaints and suggestions have been rebuffed by their board might want to consider enlisting professionals to help them make their case to other shareholders and, if necessary, to attempt to replace one or more members of the board.

"There are times when management companies, accountants and lawyers are approached by groups of shareholders and asked to assess the way the building is being run," Mr. Grant said. He added that this happens most often when shareholders believe that the building's sponsor is still exercising control, whether directly or indirectly, over the affairs of the building.

In fact, Mr. Grant said, there is a possibility that some accountants, managers and

lawyers might work for reduced rates, even free, if the dissenting shareholders' complaints are legitimate and the problems in the building appear to be serious.

"I once wrote a letter to three accounting firms and three law firms asking if they would give free advice to a group of dissident shareholders I believed had legitimate concerns about how their building was being run," he said. "All six firms offered to help."

The reason some professionals are willing to do that, Mr. Grant explained, is because they can reasonably expect to be hired by the building if the dissenting shareholders gain control of the board.

Even if a shareholder group cannot get professional assistance in their effort, Mr. Grant said, the law provides them with some of the tools necessary to mobilize other shareholders.

"Any shareholder in a building has the right to get a list of the names and addresses of every other shareholder in the building," he said. "And while it's possible that the current management company might not make it easy, they have to make the list available. You might have to sit there and copy it out by hand, but they have to give you access to it."

Having the list of all shareholders makes it possible for dissident shareholders to state their case to every owner in the building, including those who may sublet their apartments and live elsewhere. And that, he said, could be quite useful when the time comes to solicit votes for the election of directors.

Eric Gonchar, a Manhattan co-op lawyer and the owner of a Manhattan co-op, said that he used a more personal and labor-intensive approach to ensure that his voice was heard and his views acknowledged in his building.

"I ran for a seat on the board of directors," Mr. Gonchar said, explaining that he wanted to influence how his building would refinance its mortgage. "I wanted to make sure that I would have input in the decision-making process," he said. "So I wrote up a memo explaining how I would approach the refinance, and I slipped the memo under every single door in the building."

Mr. Gonchar, who won the seat he sought, said that while his relatively low-key method for gaining a voice worked, there were times when "harsher solutions" might be called for.

"You can always wait for the annual meeting and try to elect a whole new slate of board members," he said. "But you need a lot of support and a lot of committed souls to accomplish that."