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BARINAS AT BUILDING: seeking answers, finding frustration.

WORKING WITH MANAGEMENT

A Snapshot

By BILL MORRIS

SOME IDEAS ARE LIKE WINE. They start out just fine but with time, given the right conditions, they can turn into vinegar.

Take, for instance, the idea of a sponsor doubling as a property manager. Some do it so successfully that when the shareholders take over, the switch is seamless and the sponsor maintains good relations with them, staying on as manager. Then there are others in which the management match doesn't click. But they glide along for years because the board is asleep at the switch.

That was the case at the Ferry Point Park Condominium in the Throgs Neck section of the Bronx, where the sponsor owned 11 of the 31 garden apartments, controlled two of the seven seats on the board of directors, and, for good measure, served as property manager. After the sponsor ran into financial trouble in the late 1990s, Penmark Realty bought the 11 apartments, and donned the three hats of sponsor, board representative, and property manager. (Penmark was recently acquired by Douglas Elliman.)

When Norma Barinas moved into Ferry Point in 1993, she formed a homeowners' association and ran for the board, serving for nine years. But by early 2009, Barinas, 59, a retired school administrator, had soured on the idea of the sponsor having so much power. She ran for the board again, was elected along with four like-minded unit-owners, and immediately set about trying to wrest management duties from the sponsor and make up for what she saw as years of negligence by the previous board.

The condo was paying into a worker's compensation fund – even though it had no employees. The total tab was $65,000 a year.

"I felt there were so many issues that were not being addressed because the board was asleep on the job," says Barinas, who is the current board's treasurer. "The management company was running the property without the board's input."

Bernard Friedman, president of Penmark, defends his company's performance in the dual roles of sponsor and property manager. He even argues that sponsors can make ideal managers.

"If the sponsor's legit, he has a feel for the building and he wants to take care of it," Friedman says. "It's a better fit for the building. But this [Ferry Point board] is a difficult group. They don't trust people. I got them a $125,000 line of credit, $75,000 of which was used to make repairs. It's only because of me that they got the loan."

After winning election, Barinas asked the former board president to release financial statements for the years 2002 to 2009, the years Barinas was not on the board. She asserts that much was missing, including monthly financial reports, invoices, and bank reconciliations. Using what she had, Barinas put together a spreadsheet of the condo's finances.

"When I did the spread sheet I began to uncover a lot of things," Barinas says. "The board had presented a pie chart that said in 2002, 28 percent of our budget was going toward insurance. I thought that was a high number."

She soon found out why. In addition to carrying a hefty $200 million umbrella insurance policy and conventional liability, flood, and directors' and officers' policies, the condo was also paying into a worker's compensation fund even though it had no employees. The total tab was $65,000 a year.

To top it off, the property had been plagued for years by the predictable results of shoddy construction – leaky windows and roofs, flooded basements, and inadequate insulation. It was, the new board members agreed, time for a major change of direction. One of their first actions was to hire the law firm of Braverman & Associates.

"The unit-owners were very, very upset," recalls Rob Braverman, a partner in the firm. "For us, the first order of business was to bring in a management company that the unit-owners selected."

Scott Greenspun, the firm's attorney assigned to represent the board, says the problems stemmed from an arrangement that is more common in newly constructed or recently converted condos than in established ones like Ferry Point.

"In many cases you have issues when the sponsor or the sponsor's successor is the managing agent," Greenspun says. "Even in the best of scenarios, there's room for suspecting a conflict of interest. The unit-owners [at Ferry Point] felt that they were getting inadequate financial disclosures and information, and that decisions were being made by the managing agent in conjunction with the sponsor that were not in the best interests of the unit-owners. We wanted them to have more control, good governance, and good access to information. One of the ways to get more control is to not have a managing agent who is the sponsor."

Greenspun is quick to add that his firm represents several buildings where a sponsor-related entity serves as property manager, and the arrangement has worked well for many years. What counts ultimately, he says, is not who is managing the property, but how well they are managing it.

Sometimes, you get what you want without even having to ask. In late July, Penmark announced it was voluntarily ending its role as managing agent at Ferry Point. Friedman says he is now trying to sell Penmark's 11 apartments. "They did us a big favor by terminating their contract," Barinas says.

After Penmark stepped down, the board got busy interviewing four management companies, a process that included walk-through tours of the property. It decided to hire Solstice Residential Group, a company founded in July of 2008 by Alex Kalajian, who has 20 years of experience managing co-ops and condos.

Says Barinas: "We got a good feeling from him. He knows what our needs are, and he's had experience with management-sponsor issues."

"A large portion of our clients have sponsor issues," says Kalajian, "and we have a very good understanding of how these things work."

The most common problems, he says, are disputes over defects in new construction, conflicts over billing, and the collection of transfer fees. Having the sponsor manage the property, he adds, can be a ticklish proposition.

"There's nothing wrong with that arrangement per se, "but it's probably not a good idea. If the sponsor is in control of managing the cash assets, it's not necessarily in the best interests of the condo as a whole. For example, late fees. You don't know if a sponsor-manager will bill themselves."

Kalajian adds that Penmark was cooperative about passing along documentation and paperwork, and the transition has been "reasonable and fair."

Kalajian's top priority was to produce a budget, which he submitted to the full board in late November. He then put his insurance broker to work trying to figure out a way to reduce the high insurance costs. The board plans to hire an independent auditor to look over the work of a CPA hired by Penmark.

"An audit has never been done before," says Barinas. "We want to do an audit to make sure that Penmark was doing things properly. There are too many questions and too few answers."

By year's end, the unit-owners of Ferry Point could feel a fresh breeze blowing in from the nearby waters where Long Island Sound funnels into the East River.

"The transformation has started," Kalajian says. "The place just needs some attention and loving care." **H**