

A NOTE FROM OUR CHIEF OPERATING OFFICER



April 15th, 2020

**FAQ About Purchases in Your Building,
Second Edition**

Dear Boards,

Please see below a communication from **Diana Diaz, Argo's Director of Closings** :



During these difficult times Boards are being faced with unprecedented issues and questions surrounding the sale and approval processes. In an attempt to share information, below are some additional questions we have received from several board members and our responses to those questions. Throughout the next few weeks we will continue to share new questions and answers as they arise.

The following is provided as guidance only. If your building is facing any of these issues, please speak to your building attorney before proceeding.

Question:

Should a Board member answer questions from fellow shareholders after a board rejected an application?

Answer: This pandemic is posing higher than usual financial strain on people, especially on people who were in the middle of selling their apartment. However, the Board has a fiduciary responsibility to review applications and approve or reject based on what is best for the cooperative, as a whole. If the Board rejects an application based on the merits of that application the Board members should not entertain questions from shareholders. A board member may be tempted to help their fellow shareholder, who may also be a friend or a neighbor, and offer insight as to why the application was denied. A board member should never give a reason for a rejection and advise that shareholder to speak with management, since this can open the Board and the cooperative to liability.

Question:

Can a cooperative allow a purchaser or applicant to move in but not allow moving companies into the building?

Answer: In our last FAQ we opined that a building may mitigate the exposure risks of allowing a move by limiting the number of movers allowed, or requiring that the person moving in hire a cleaning company to sanitize after the move, etc. and that it was recommended that you speak with your cooperative counsel on this subject. However, some buildings have since decided that they would allow the purchaser or applicant, in the case of a sublet, to move in but will not allow third party movers. In this case, perhaps the person moving in can move in a bed and a few belongings, while mitigating the risks of allowing multiple people in the building. Again, this is something a Board should speak to their corporate counsel about.

Question:

Should a Board reject a purchase application because the applicant may lose their job to the coronavirus pandemic?

Answer: The Board has a responsibility to make decisions on applications based on current day information. However, an applicant's future employment is a very real consideration under the current pandemic. However, boards should be aware of a couple of factors when considering the continued employment of applicants: 1) most contracts being drafted today include a "coronavirus clause". This clause states that should the purchaser(s) lose their job prior to closing the contract can be voided by the purchaser(s) and 2) if the purchaser is financing, the bank will do an employment check 24 hours prior to closing to ensure that the purchaser(s) financial qualification has not changed. These two measures should alleviate the Board's need to speculate if the applicant may lose their job due to the pandemic.

Question:

If a shareholder is refinancing, does a Board member need to "wet" sign recognition agreements?

Answer: Argo is in the process of making the entire refinance application, including recognition agreement signing, digital. However, there may still be some banks that require a wet signature and in those cases, the Transfer Department will still need to arrange original signatures with the signing board member.

Best,

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