

336 CPW Windows

Planning For The Future

- Protect Our Collective Financial Interest In The Building
- Ensure Fairness & Certainty For Shareholders Individually

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Window Repair & Replacement Transition Plan

- Background
- Why We Need This
- Plan Formation; Structure and Implementation
- Window “Ownership” Transfer By Periodic Accrual
- Special Adjustment In Case of Sale or Renovations
- Bulk Window Replacement Programs – General Availability
- Board Control, Discretion, Finality

Background – Building Census

- 95 apartments
- 83 owners
- Approximately 440 windows
- 68 owners require at least one window repaired or replaced
- 16 owners do NOT require any work on windows in their apartments
- Some owners (or their predecessors) have done work on the windows – result is they “own” them
- The co-op has done work (replacement and repair) on many windows
- The building is approximately 88 years old
- The building went co-op in 1970

Background – Uncertainties

- Changes may have occurred in the chain of title since the building went co-op (1970). Who owns the windows – the co-op or the shareholder? The presumptive answer is “the co-op” but there may be uncertainties here.
- Is a repair or replacement mandatory? Prudent? A good idea, but not necessary? Mandated by the Board? Mandated by the City (Local Law 11)?
- Does the work require an architect? A filing with the City? Landmarks?
- Who selects the contractor and the window supplier?
- In case of a replacement, who selects the new window and determines the cost?
- All this affects the cost, complexity, final appearance and satisfaction of the shareholder. See <http://goo.gl/L88XFo> (NY Times)

Why Do We Need This?

- The allocation of financial responsibility is entirely arbitrary – just like a lottery
- This contingent liability is shared *pro rata* by all shareholders
- Even if you have paid to replace all your windows or you “own” your windows because you or your predecessors did something unilaterally – you still “own” a *pro rata* share of the total contingent liability
- For every 100 shares you own, your liability is 0.83% of the total
- Anything you wish or need to do for your own windows requires Board approval and collaboration
- Anything you wish or need to do will be done on a retail basis
- No matter what happens with your windows, you still “own” a *pro rata* share of everyone else’s contingency

Bottom Line – Summary Of Where We Are

- If you already “own” your windows, you are being relieved of a contingent liability in exchange for an obligation you already have
- If you don’t “own” your windows, here is the trade you are being offered
- You take responsibility for your own windows – phased in over 5-1/2 years – in exchange for being relieved of your pro rata contingent liability for all the windows in the building – your own included
- Another way to think of it: You take on a known condition (your own) in exchange for getting out of a percentage share in “the good, the bad and the ugly” – all unknown.
- Your result is mitigated by: (1) its phase-in, (2) the option to “sell” it with your apartment, (3) the option to “fix” it by deciding to renovate, and (4) the option to “fix” it with help from bulk discounts possibly available (plus co-op’s 50% sharing of window cost) in a bulk replacement program that will be offered at least once

Special Factors When You Sell Or Renovate

- Many if not most buyers plan to renovate after they buy
- They will not give credit to the seller for any co-op responsibility for windows included in the renovation; often the renovation decision is as much stylistic as structural
- Shareholder-owner major renovations present a convenient opportunity to accomplish a complete update of deferred maintenance
- These Class III renovations create an option for the shareholder and the building to do something that may or may not be fully required at present, but is prudent, convenient and advantageous to do
- This is an occasion for the building to be relieved of its responsibility and for the shareholder to obtain complete control of when to finalize and liquidate his or her own individual contingency

Plan Formation; Structure and Implementation

- Shareholders adopt a Window Plan as part of – or separately from – adopting a new Proprietary Lease
- The Plan shifts “ownership” of each shareholder’s windows – including the responsibility for repair and replacement – over a 67 month period
- As part of the Plan, the Board makes an initial determination whether the windows in each apartment are “owned” by the co-op or the shareholder
- Presumption in favor of co-op ownership

Plan Formation; Structure and Implementation

- For each apartment in which the windows are “owned” by the co-op, the co-op’s “ownership” will shift on an accrual basis from the co-op to the shareholder – $1\frac{1}{2}\%$ per month, 67 months for full transfer
- Board will determine who owns windows in each apartment and give shareholders notice of that determination
- The plan does not “commence” operation until that notice is given
- In order to manage the Plan, the Board will engage a Window Registrar (an administrator) who/which will maintain a Window Registry recording all necessary, pertinent information for Plan administration
- Implementation begins following shareholder approval and delivery of notice concerning window ownership

Window “Ownership” Transfer By Periodic Accrual

- After the Plan is effective, co-op “ownership” of the windows it “owns” will begin transferring automatically to the shareholder at the rate of 1-1/2% per month
- Monthly accruals continue until the apartment windows are 100% “owned” by the shareholder, subject to earlier acceleration
- Full “ownership” transfer by accrual will be complete after 67 months (5-1/2 years)
- Monthly “ownership” transfer accruals will be recorded in the Window Registry and reported monthly to shareholders on their maintenance statements
- The building/shareholder “ownership” share at any given time is the Applicable Window Ratio, also recorded in the Window Registry
- For example, after 2 years the Applicable Window Ratio will be 36% shareholder and 64% co-op
- In that example a \$1,000 repair or replacement would be shared \$360 for the shareholder and \$640 for the building

Special Adjustment In Case of Sale or Renovations

- If an apartment is sold, the Applicable Window Ratio is accelerated so that all windows in the apartment are 100% “owned” by the apartment transferee (new “owner”)
- When a shareholder begins a Class III renovation of an apartment, the Applicable Window Ratio will be accelerated so that all windows in the apartment are 100% “owned” by the shareholder

Bulk Window Replacement Programs – General Availability

- After the Plan is effective and in operation, the co-op will offer one or more bulk window replacement programs having at least the terms described below
- The first bulk window replacement program will be offered in the first year of the Plan
- Components of a bulk window replacement program
 - Must be offered to all shareholders
 - Will include necessary engineering, architectural design, product supply, permitting and installation arrangements
 - Arrangements offered will include bulk discounts based on the number of windows ordered by all subscribing shareholders
 - The first program will be capped at a maximum \$250,000 expenditure by the co-op
- Participation in a program will result in acceleration of “ownership” of the apartment windows to 100% shareholder “ownership”

Board Control, Discretion, Finality

- All aspects of the Plan are within the Board's absolute discretion, business judgment and control
- The Board may, but need not, retain outside experts to help it makes judgments, determinations or assessments necessary, appropriate or convenient to Plan administration – whether such judgments, determinations or assessments are specifically called for or not
- Every action, judgment, determination and assessment undertaken by the Board shall be:
 - Final, binding and conclusive on all parties, whether the party participated or not
 - NOT subject to appeal or reconsideration (except in the discretion of the Board)