

By the Public Advocate (Mr. Williams) and Council Members Sanchez, Restler, Won, Krishnan, Narcisse, Ayala, Abreu, Williams, Avilés, Marte, Bottcher, Hanif, Cabán, Feliz, Farías, Ossé, Nurse, Hudson, Brooks-Powers, Gutiérrez, Salaam, Stevens, Joseph, De La Rosa, Louis, Hanks, Banks, Moya and Brannan (in conjunction with the Brooklyn Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to sales of cooperative apartments

Be it enacted by the Council as follows:

Section 1. Title 8 of the administrative code of the city of New York is amended by adding a new chapter 9 to read as follows:

CHAPTER 9

FAIR RESIDENTIAL COOPERATIVE DISCLOSURE LAW

§ 8-901 Definitions.

§ 8-902 Mandatory statement.

§ 8-903 Amended, supplemental and untimely statements.

§ 8-904 Liability for failure to provide statement.

§ 8-905 Procedure for asserting violation.

§ 8-906 Preclusive effect of statement.

§ 8-907 No estoppel or res judicata.

§ 8-908 Powers of the commission.

§ 8-909 Construction.

§ 8-901 Definitions. As used in this chapter, the following terms have the following meanings:

Application. The term “application” means both the request of a prospective seller or a prospective purchaser to a cooperative corporation for that cooperative corporation to provide its unconditional consent to a sale of certificates of stock, a proprietary lease or other evidence of an ownership interest in such cooperative corporation, and the information and documents acquired by the cooperative corporation in connection with its determination as to whether or not to grant unconditional consent to the sale of certificates of stock, a proprietary lease or other evidence of

1 an ownership interest in such cooperative corporation.

2 Commission. The term “commission” means the New York city commission on human  
3 rights.

4 Cooperative corporation. The term “cooperative corporation” means any corporation that  
5 grants persons the right to reside in a cooperative apartment, that right existing by such person’s  
6 ownership of certificates of stock, proprietary lease or other evidence of ownership of an interest  
7 in such entity, but shall not include a cooperative corporation containing less than 10 dwelling  
8 units.

9 Prospective purchaser. The term “prospective purchaser” means a person who has entered  
10 into a contract of sale to purchase the proprietary lease and the ownership interest in a cooperative  
11 corporation from a prospective seller.

12 Prospective seller. The term “prospective seller” means a person who has a proprietary  
13 lease and an ownership interest in a cooperative corporation and who has entered into a contract  
14 of sale to sell the person’s proprietary lease and ownership interest in a cooperative corporation to  
15 a prospective purchaser.

16 Sale. The term “sale” means the transfer of a person’s ownership interest in a cooperative  
17 corporation and that person’s proprietary lease to another person.

18 § 8-902 Mandatory statement. a. If a prospective purchaser is disapproved, the cooperative  
19 corporation shall provide the prospective purchaser with a written statement of each and all of its  
20 reasons for withholding consent no later than five business days after it has made its decision to  
21 withhold consent.

22 b. The statement required by this section must set forth each reason for withholding consent  
23 with specificity. This requirement includes identifying each element of the prospective purchaser’s

1 application which was found by the cooperative corporation to be deficient; any specific ways that  
2 the application failed to meet any specific policies, standards or requirements of the cooperative  
3 corporation; and the source of any negative information relied upon by the cooperative corporation  
4 in connection with any of its reasons for withholding consent to the proposed purchase. The  
5 statement must convey sufficient information to enable a prospective purchaser to take specific  
6 steps to remedy any specific deficiencies in that application.

7 c. The statement required by this section must set forth the number of applications that  
8 have been received by the cooperative corporation in the period commencing three years prior to  
9 the date of the submission of the application that is the subject of the statement and continuing  
10 through and including the date of the statement. The statement must also set forth for the same  
11 period of time the number of applications for which the cooperative corporation withheld consent  
12 and the number of applications for which the cooperative corporation did not make a decision on  
13 such applications.

14 d. The statement required by this section shall include a certification by an officer of the  
15 cooperative corporation, sworn or affirmed under penalties of perjury, that the statement is a true,  
16 complete and specific recitation of each and all of the cooperative corporation's reasons for  
17 withholding consent; that each person who participated in the decision to withhold consent has  
18 stated to the certifying officer that such person had no reasons for withholding consent other than  
19 those set forth in the statement; and that the statement is a true and complete recitation of total  
20 applications, applications for which consent was withheld and applications in which no decision  
21 was made, as required by this chapter.

22 § 8-903 Amended, supplemental and untimely statements. a. Amendments or supplements  
23 to timely statements required by section 8-902 of this chapter shall also be considered timely if

1 such amendments or supplements are provided to a prospective purchaser within 10 business days  
2 after the cooperative corporation has disapproved a prospective purchaser.

3 b. If a cooperative corporation seeks to provide a prospective purchaser with an untimely  
4 statement, amendment or supplement, the untimely statement, amendment or supplement must be  
5 accompanied by a statement of reasons for untimeliness.

6 § 8-904 Liability for failure to provide statement. In addition to any other penalties or  
7 sanctions which may be imposed pursuant to this chapter or any other applicable provision of law,  
8 any cooperative corporation that is determined to have failed to timely comply with any of the  
9 requirements of sections 8-902 of this chapter shall be liable for statutory damages to each  
10 prospective purchaser or prospective seller who commences or joins in an action alleging a failure  
11 to have timely complied with such requirements in an amount no less than \$1,000 and no more  
12 than \$25,000, in addition to liability as provided by section 8-906 of this chapter. In determining  
13 the appropriate statutory damages to be imposed pursuant to this section, a finder of fact shall take  
14 into account both the scope of non-compliance and the resources of the cooperative corporation.

15 § 8-905 Procedure for asserting violation. Any prospective purchaser or prospective seller  
16 may commence an action in any court of competent jurisdiction alleging a failure to comply with  
17 the requirements of this chapter. Such action must be commenced within six months of the time  
18 when compliance was required. The prevailing party in such an action may be awarded costs and  
19 reasonable attorneys' fees. The court shall also order an appropriate equitable remedy, provided  
20 that such remedy shall not include a grant of property or an order directing the cooperative  
21 corporation to reconsider an application or to grant its consent to a sale. In the event that the finder  
22 of fact determines that non-compliance was willful, the finder of fact shall award punitive  
23 damages, but such damages shall not exceed twice the amount awarded under section 8-904 of this

1 chapter.

2       § 8-906 Preclusive effect of statement. a. In any action or proceeding commenced against  
3 a cooperative corporation pursuant to any chapter of this title, neither the cooperative corporation  
4 nor any of its directors, officers, employees, or agents shall be permitted to introduce any evidence  
5 concerning reasons for having withheld consent that were not set forth in a statement fully  
6 compliant with the requirements of this chapter.

7       b. A person commencing an action or proceeding as described in paragraph a of this section  
8 is under no obligation to commence an action under section 8-905 of this chapter in order for such  
9 person to gain preclusion of non-compliant statements. The court before which the allegation of  
10 an unlawful discriminatory practice is pending shall determine which statements, if any, fully  
11 complied with the requirements of section 8-902 of this chapter, unless such a judgment has  
12 already been rendered pursuant to an action commenced pursuant to section 8-905 of this chapter.

13       § 8-907 No estoppel or res judicata. No action commenced pursuant to this chapter shall  
14 determine or purport to determine either the genuineness of the reasons provided in the statement  
15 required by section 8-902 of this chapter or any question of whether any person has committed an  
16 unlawful discriminatory practice as defined by chapter 1 of this title. If a judgment rendered  
17 pursuant to an action commenced pursuant to this chapter purports to do so, a person shall  
18 nevertheless retain all rights to commence an action or proceeding alleging that an unlawful  
19 discriminatory act has been committed, and insofar as any judgment rendered pursuant to this  
20 chapter purports to make findings regarding either genuineness or whether an unlawful  
21 discriminatory practice has been committed, such purported findings shall not be given any force  
22 or effect in any other action or proceeding.

23       § 8-908 Powers of the commission. The commission may initiate investigations in

1 connection with a failure to have timely complied with the requirements of section 8-902 of this  
2 chapter. In the event that the commission determines that a violation occurred, it may award civil  
3 penalties in an amount no less than \$1,000 and no more than \$25,000.

4 § 8-909 Construction. a. The provisions of this chapter shall be construed in a manner to  
5 make certain that a prospective purchaser has been provided with sufficient information to learn  
6 why a cooperative corporation has withheld consent to such purchase, and to deter attempts to  
7 evade or delay compliance with the provisions of this chapter.

8 b. No provision of this chapter shall be construed or interpreted to restrict or expand the  
9 reasons for which a cooperative corporation may lawfully withhold consent.

10 § 2. This local law takes effect 120 days after it becomes law.

Session 13  
LS #7796  
01/18/2024

Session 12  
JJ  
LS #7796  
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