
NEW YORK ASSOCIATION OF REGISTERED MANAGERS

NYARM - SEMINAR:

"CONDUCTING MEETINGS - DOS & DON'TS - WARNINGS"

PANELIST:

**RONALD A. SHER, ESQ.
HIMMELFARB & SHER, LLP**

I. TOPIC INTRODUCTION

II. PRESENTATION:

"The ABC's of Conducting Meetings - A Primer"

"The Pitfalls and Problems - Dos & Don'ts - Warnings"

"Serving on the Board of Directors - No Good Deed Goes Unpunished"

"Minutes - Quorums - Executive Committees - Proxies - Voting"

"Who Let the Dogs Out? By-Laws: More Bark Than Bite?"

III. DISCUSSION BY PANELISTS

**Scott Greenspun, Esq. - Braverman Greenspun, P.C.
Steven Kirkpatrick, Esq. - Bewlkin Burden Wenig & Goldman, LLP
Jay L. Hack, Esq. - Gallet Dreyer & Berkey, LLP
Ronald A. Sher, Esq. - Himmelfarb & Sher, LLP
Steven R. Wagner, Esq. - Wagner Berkow, LLP**

IV. QUESTIONS AND ANSWERS - OPEN DISCUSSION

V. PANELIST RESUME

March 25, 2015

CONDUCTING MEETINGS
NYARM - SEMINAR
PAGE -2-

NAVIGATION OF THE DIRECTORS MEETINGS:

The members of the Board of Directors must act in compliance with their respective fiduciary duties and By-Laws, as well as adhere to the Business Corporation Law in conducting Meetings, and to "SEE" (Scrutinize, Examine & Evaluate) the governance issues and navigate through the topics and area of concerns presented on the Agenda for the Meeting.

Order of Business:

Meeting is called to Order upon the establishment of a Quorum

Quorum is generally considered to represent a majority of the Directors

President shall preside at the Meeting

Agenda for Meeting - Proper Prior Preparation Prevents Poor Performance

Review and Approval of Minutes

Notice of Meeting: Neither the business to be conducted or purpose of meeting need be specified except as otherwise required in the By-Laws

The act of a majority of the Directors present at any meeting at which a Quorum is present shall be the act of the Board, unless a greater number is required by the By-Laws or Certificate of Incorporation

Proxy Voting is NOT permitted

Abstention generally counts as a NO vote

Participation at meeting by directors is permitted by means of a conference call or other similar communication equipment allowing all persons participating in the Meeting to hear each other at the same time

Preparation of Minutes - Caveat KISS

**CONDUCTING MEETINGS
NYARM - SEMINAR
PAGE -3-**

CONCLUSION:

The Board of Directors may be the captain of the ship, but the Managing Agent is certainly the first mate and navigator; who prepares the Agenda, may take the minutes, charts the course, trims the sails, steers the rudder and hopefully doesn't cause a shipwreck or walk the plank, as captain goes down with the ship.

Should you have any legal issues or specific concerns relative to corporate governance issues or establishing strategies for the navigation of Board, please call Himmelfarb & Sher, LLP, White Plains Plaza, One North Broadway, Suite 800, White Plains, NY, 10601, attention: Ronald A. Sher, Esq. Tel: (914) 461-0220 or at law@himmelfarb-sher.com.

CONDUCTING MEETINGS

NYARM - SEMINAR

PAGE -4-

CONDUCTING A BOARD MEETING:

QUORUM IS NECESSARY TO CONDUCT BUSINESS - NO QUORUM NO MEETING

BREAK THE QUORUM MEETING IS OVER - DIFFERENT FOR SHAREHOLDERS

WHAT IS THE LOCATION DESIGNATED IN BY-LAWS OR LAS VEGAS

CONFIDENTIALITY OMEROTA CODE OF SILENCE

JUST AS A CHAIN IS ONLY AS STRONG AS ITS WEAKEST LINK

SO IS A BOARD MEETING ONLY AS CIVIL AS ITS MOST CRUDE DIRECTOR

ONLY AS IN CONTROL AS MOST BOISTEROUS OR DISRUPTIVE DIRECTOR

ONLY AS PRODUCTIVE AS ITS LEAST PRODUCTIVE DIRECTOR

THEREFORE THE KEY TO SUCCESS IS THE FOLLOWING:

2G = GOOD GOVERNANCE

4C = COMMUNICATION, CIVILITY, COOPERATION & CONTROL

7P = BE PREPARED AND ON TIME

EMAIL VOTING IS A NO NO BUT EMAIL COMMUNICATIONS IS A VITAL TOOL OF GOOD GOVERNANCE EXCEPT REPLY ALL IS ALWAYS A PROBLEM

NEVER SAY ANYTHING IN AN EMAIL THAT YOU WOULD NOT WANT TO BE READ IN OPEN COURT SINCE EMAIL IS DISCOVERABLE

EMAIL ATTORNEY CLIENT WORK PRODUCT - CONFIDENTIAL COMMUNICATION

QUESTION IS IT PROPER FOR CERTAIN DIRECTORS TO COMMUNICATE AND LEAVE OUT OTHERS

PREPARATION OF MINUTES: VERBATIM TRANSCRIPT OR DETAILED SUMMARY OF DISCUSSIONS IS NEITHER NECESSARY NOR REQUIRED RATHER MINUTES ARE A RECORD OF WHAT WAS DONE AT A MEETING NOT WHAT WAS SAID

MINUTES - CAVEAT KISS: THE BOD ASKED THE MA TO INSPECT THE STAIR AND MAKE RECOMMENDATIONS OR OBTAIN PROPOSALS

OR THE BOD ASKED THE MA TO CONDUCT AN INSPECTION OF THE UNSAFE AND DANGEROUS STAIRCASE SINCE ITS AN ACCIDENT WAITING TO HAPPEN AND ...

CONFERENCE CALL PARTICIPATION OR UTILIZATION OF SKYPE

RULES SHOULD BE ADOPTED TO SPECIFY THE EQUIPMENT, METHODS FOR SEEKING RECOGNITION, OBTAINING FLOOR SUBMITTING MOTIONS, DETERMINING THE PRESENCE AND CONTINUATION OF A QUORUM & TAKING AND VERIFYING VOTES AND MINUTES

YES A PRESIDENT MAY VOTE

RULES FOR INTERESTED DIRECTORS, CASES INVOLVING DIRECTORS CONFLICTS

NEW YORK ASSOCIATION OF REGISTERED MANAGERS

NYARM - SEMINAR: MAY 14, 2015

GAS RISERS & BRANCH LINES:

CONNECTIONS, RETROFITS & REPAIRS

GAS SAFETY LEGAL & INSURANCE TEAM: DISCUSSION

MODERATOR:

**RONALD A. SHER, ESQ.
HIMMELFARB & SHER, LLP**

I. TOPIC INTRODUCTION

- "The ABC's of Gas Safety 101- A Primer: Gas Leaks"**
- "The Pitfalls and Problems - Dos & Don'ts - Warnings"**
- "Concerns & Consequences of Dealing With Natural Gas"**
- "Implementing Safety Protocol & Establishing Procedures"**
- "Avoiding Calamity, Catastrophe & Casualty - Averting Disaster"**
- "Dual Fuel Gas Conversion - Gas Renovations – Legal Issues"**
- "Alteration Agreements - Indemnification & Hold Harmless Agreements"**

II. PRESENTATION - PANELIST:

- **Patricia M. Batih, Mackoul & Associates pbatih@mackoul.com**
- **Peter V. K. Funk, Jr., Esq., Funk & Zeifer LLP peter.funk@funkandzeifer.com**
- **Stephen C. Shulman, Esq., Borah, Goldstein, Altschuler, Nahins & Goidel PC**
- **Joe Zubin, Safety Manager, United Metro Energy josephzubin@umecny.com**

IV. QUESTIONS AND ANSWERS - OPEN DISCUSSION

V. PANELIST RESUME

May 14, 2015

THE ABC'S OF GAS SAFETY 101- A PRIMER: GAS LEAKS:

The Common Cause of Gas Explosions:

1. Improper Use of Gas Furnaces, Stoves or Gas Appliances
2. Gas Equipment Improperly Installed or Incorrectly Utilized
3. Defective Gas Operated Equipment - Faulty Manufacturing of Gas Tanks - Laundry
4. Faulty Condition of Exterior Gas Lines in the Street [Deteriorated, Settled, Unsupported]
5. Negligence, Stupidity, Misuse, Vandalism & Tampering with Gas Lines
6. Violation or Breach - Failure to Comply - Substandard Dangerous Practices
7. Defective Excavation - Improper Use of Backhoe/High Power Tools Near Gas Lines

GAS EXPLOSIONS - PERSONAL INJURIES & PROPERTY DAMAGE

Gas Leak & Ignition Source = Boom

If You Suspect a Leak - Smell Mercaptan [Rotten Eggs Sulfur Compounds]

Don't Turn on the Lights or Flashlight

Don't Light a Match or Smoke a Cigarette

Don't Use Phone/Cell or Appliances

Leave the Premises ASAP

March 25, 2015 - 121 Second Avenue, NYC Gas Explosion

March 16, 2014 - 116th Park Avenue, NYC Gas Explosion

July 10, 2014 - 17 Pike Street, NYC - Gas Explosion

GAS LEAKS

Report of Gas Leak

Safety Requirement Shut Down or Termination of Gas Source

Investigate Gas Leak

Perform Repairs

Pressure Test for Integrity of Gas Line - Failure Rate Guaranteed Due to PSI

Access All Apartments - Replace Gas Lines/Connectors - Notify Insurance Carrier

DUAL FUEL GAS CONVERSION

CONSOLIDATED EDISON IS YOUR FRIEND OR FOE

LOAD LETTERS

DOB APPROVAL

NEED FOR SPECIFICATIONS

NEED FOR SUPERVISION, OVERSIGHT & MONITORING OF PROJECT

FIRM GAS - INTERRUPTIBLE SERVICE

COST BENEFITS - PAYBACK - WIN/WIN

CONCLUSION:

The Board of Directors, together with its Managing Agent, must implement and establish Safety Protocols and Emergency Procedures to protect the residents and safeguard the Premises.

The Board of Directors may be the captain of the ship, but the Managing Agent is certainly the first mate and navigator; who helps select the engineer & contractor, manages and/or monitors Capital Improvement Project, keeps a watchful eye, and thereby charts the course, trims the sails, steers the rudder and hopefully doesn't cause a shipwreck or gas explosion; or walks the plank, as captain goes down with the ship.

Should you have any legal issues or specific concerns relative to corporate governance issues or establishing strategies for the navigation of Board, please call Himmelfarb & Sher, LLP, White Plains Plaza, One North Broadway, Suite 800, White Plains, NY, 10601, attention: Ronald A. Sher, Esq. Tel: (914) 461-0220 or at law@himmelfarb-sher.com.

HABITAT
BOARD LEADERSHIP CONFERENCE
SEMINAR: CONDO COLLECTIONS

MODERATOR: RONALD A. SHER, ESQ.
HIMMELFARB & SHER, LLP

I. INTRODUCTIONS

II. CONDO COLLECTIONS - A TIME FOR TOUGH LOVE

"Collection of Common Charge Arrears - Payment Schedules"

"Budgetary Problems Due to Nonpayment and Delinquency"

"Forfeiture of Privileges - Utilization of Recreational Facilities"

"Preservation of Rights - Filing Notice of Lien"

"Collection of Rent from Tenant - Appointment of Receiver"

"Commencement of Litigation - Money Judgment"

"Foreclosure by Condominium - Foreclosure by Lender of Unit Owner"

"Extinguishment of Common Charge Lien - Condominium Super Lien Law"

"Bankruptcy Related Problems"

III. DISCUSSION BY PANELISTS

IV. QUESTIONS AND ANSWERS - OPEN DISCUSSION

V. ARTICLES

A. "Getting Tough with Assessment Collections"

Community Association Institute - Common Ground Magazine

James L. Strichartz, Esq.

B. "Using a Sheriff's Sale to Collect Assessments"

Community Association Institute - Common Ground Magazine

Thomas J. Hindman, Esq, Oren & Hindman

C. "Headache Free Assessment Collection"

Community Association Institute - Common Ground Magazine

Gwendolyn Glenn

**D. "When Worlds Collide: Collection of Common Charge Arrears by
Condominium Association When Banks Foreclosure"**

Community Life Magazine

E. "The Foreclosure Process/ How the Board Can Avoid Potential Pitfalls"

The Cooperator - Linda S. Alexander

VI. PANELIST RESUMES

**HABITAT - BOARD LEADERSHIP CONFERENCE:
CONDO COLLECTIONS - A TIME FOR TOUGH LOVE**

Unlike your cooperative brethren who have paper trails and legal recourses that condo boards can only dream about, collection delinquent common charges in a condo is tough business. There are steps to take, however, and in this seminar you'll learn them. From legal sanctions to proactive process which can make your collection job easier, you'll hear which methods are the most successful.

THE PROCEDURES FOR COLLECTION OF COMMON CHARGES

Common charges and assessment collection is the life blood of the condominium association. The board of managers has a fiduciary responsibility to ensure that common charges and assessments are received in a timely manner. Failure to do so may prevent it from fulfilling its other responsibilities: the administration of the condominium and the preservation, maintenance and enhancement of property values. If common charge and assessment collection problems are widespread, the board may be forced to delay or curtail needed maintenance, causing property values to decline.

The collection of delinquent common charges is a difficult issue faced by many board of managers. The condominium can no longer depend on 100 percent common charge collection, thereby wreaking havoc with financial concerns and the adoption of a formal budget.

The Declaration of Condominium in conjunction with the by-laws specifically provide for the rights of the condominium and obligations of the unit owner regarding the collection of common charges and assessments. Furthermore, the enabling provisions of the aforesaid condominium documents generally provide for the following:

1. Imposition of late fees and/or interest for delinquent payments;
2. Forfeiture of privileges - utilization of recreational facilities;
3. Filing of Notice of Lien;
4. Commencement of legal proceedings for a money judgment;
5. Commencement of foreclosure proceedings; and
6. Collection of rent from tenant - appointment of receiver.

CONDOMINIUM STATUTORY LIEN - ESTABLISHMENT

The Real Property Law, Condominium Act, Section 339-z, provides the condominium with a statutory lien for unpaid common charges as follows:

Section 339-z, Lien for common charges; priority; exoneration of grantor and grantee.

"The board of managers, on behalf of the unit owners, shall have a lien on each unit for the unpaid common charges thereof, together with interest thereon, prior to all other liens except only (i) liens for taxes on the unit in favor of any assessing unit, school district, special district, county or other taxing unit, and (ii) all sums unpaid on a first mortgage of record or on a subordinate mortgage of record held by the New York job development authority or held by the New York state urban development corporation. Upon the sale or conveyance of a unit, such unpaid common charges shall be paid out of the sale proceeds or by the grantee. Any grantor or grantee of a unit shall be entitled to a statement from the manager or board of managers, setting forth the amount of the unpaid common charges accrued against the unit, and neither such grantor nor grantee shall be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid common charges against such unit accrued prior to such conveyance in excess of the amount therein set forth. Notwithstanding the above, the declaration of an exclusive non-residential condominium may provide that the lien for common charges will be superior to any mortgage lien of record."

CONDOMINIUM STATUTORY LIEN - EXTINGUISHMENT

A fundamental conflict arose between unit owner lenders and the board of managers of condominiums relative to the priority of the condominium statutory lien and the first mortgagee lien in connection with foreclosure proceedings. This situation was highlighted only when there was a deficiency from the foreclosure sale resulting in an insufficient amount of funds to satisfy both the lender and condominium. There was extensive litigation between lenders and condominiums each arguing the superiority of its lien and the right to the proceeds from the foreclosure sale.

The Court of Appeals of the State of New York on June 8, 1993, finally resolved the conflict in favor of the lenders in the case of Bankers Trust Company v. Board of Managers of park 900 Condominium, 81, N.Y. 2d 1033, 600 N.Y.S. 2d 191.

This decision concluded that a foreclosure sale to a lender did not constitute a sale or transfer within the meaning of the Real Property Law, Section 339-z and that the priority of liens established by the statute subordinated the common charge lien to a recorded first mortgage. Further, that this interpretation of the statute was supported by the legislative history and the by-laws of the condominium recognized the priority of the first mortgage over any claim for common charges. Accordingly, the highest court in New York State decided that although the plain language and meaning of the statute, Section 339-z, established a lien for common charges in favor of the condominium, it also specifically granted priority to liens for "all sums unpaid on a first mortgage of record."

COLLECTION OF RENT

In order for the condominium to survive the foreclosure litigation and attempt to offset the loss of common charge revenue, the condominium generally has the right to collect rent from a tenant in the unit, pursuant to the Declaration of Condominium and by-laws, as well as codified by statute as set forth in RPL§339 (kk)[Condominium Act]. Accordingly, if the unit is leased, the condominium must be proactive in collecting the rent directly from the tenant and/or commencing litigation against the tenant in the event of a refusal; and/or submitting a motion to court requesting the appointment of a receiver in conjunction with the foreclosure proceedings commenced either by the condominium or lender. The duty of the receiver is to preserve the integrity of the property, pursuant to RPAPL§1325(2). Therefore, the receiver can enter into a lease agreement with a tenant and/or collect rent from the existing tenant and remit the rental payments, as directed by the court.

Another conflict arose between the lenders and the condominiums relative to the entitlement of the rental payments collected by the receiver during the foreclosure proceedings. This conflict has been initially decided on the lower court level, in Supreme Court decisions of First New York Bank vs. 155 E. 34 Realty Co., 158 Misc. 2d 658, 601N.Y.S.2d 990 and Board of Managers of 300 West 23rd Street Condominium v. K.B. Chelsea Realty Associates, NYLJ, August 5, 1992.

Pursuant to the decisions, it was noted that the receiver in a mortgage foreclosure action is an officer of the court, not an agent of the lender and has the duty to preserve and operate the property within the confines of the order of appointment. The lender should not be entitled to the benefit of the monies collected by the receiver unless all expense in connection with the operation of the business (condominium unit) are paid in full and by profitability operating the existing business to provide funds that can be applied to reduction of the amounts owed under the mortgage. Therefore, the court indicated that a receiver of a condominium unit upon request should pay common charges assessed against the unit during the period of receivership; however, a distinction was drawn with respect to the payment of special assessments which are generally for payment of capital improvements which will benefit the premises for a period well beyond the expected term of the receivership. Certain issues have also arisen regarding the utilization of the rental payments to offset payment of arrears that existed prior to the appointment of the receiver; or the entitlement to the rental payments that exceeds the amount of the common charges.

Additionally, the Department of Law, State of New York Attorney General's Office, promulgated certain rules and regulations as well as obtained passage of an amendment to the New York State General Business Law, Section 352-e (2-d) on July 23, 1991, with respect to the collection of rent and applies to all cooperative corporations and condominium conversion plans. The law is intended to protect cooperative corporations and condominiums, when sponsors or other outside investors fail to pay monthly carrying charges. The law enables cooperative corporations or condominiums to collect the rents payable by rental tenants living in units owned by defaulting investors or the sponsor. In the event payment of maintenance, common charges, assessments or late fees by a sponsor or other investor is more than thirty (30) days late, rental payments from the non-purchasing tenant shall become directly payable to the cooperative corporation or condominium.

BANKRUPTCY

The filing of a bankruptcy petition by a unit owner will stop all collection proceedings and foreclosure litigation by the condominium or the lender, by reason of the protection afforded pursuant to the automatic stay provisions of the Bankruptcy Code. A Chapter 7 Bankruptcy filing will permit the unit owner to be relieved of all prior obligations, including common charge delinquencies. The Bankruptcy Code was amended to provide for the continued obligation of the payment of common charges by a unit owner remaining in possession or renting the premises, subsequent to the filing of a bankruptcy petition. This amendment is designed to prevent abuses and provides for the non-dischargeability of post petition rent payments to the condominium.

CONDOMINIUM SUPER LIEN LAW

Super Lien statute is intended to provide condominiums with a limited priority lien for up to six months of common charges with respect to foreclosure sales. This permits the condominium to recover at least a portion of the delinquent common charges, which lien would otherwise be extinguished and discharged pursuant to the lender foreclosure. The status of the proposed Super Lien law is tenuous, at best, since lenders have lobbied extensively against its adoption and passage by the New York State legislature. In fact, the legislature several years ago permitted the proposed legislation to die in committee and, thereafter, in a subsequent year, the bill was soundly defeated on the floor. Many organizations and Bar Associations, including the Council of New York Cooperatives, the Real Estate Bureau Task Force, the Community Association Institute, and the Cooperative Condominium Advisory Council of Westchester County have made passage of the Super Lien statute one of its legislative priorities; albeit same is still extremely doubtful and problematic.

MONETARY JUDGMENT

The condominium should consider the commencement of litigation for a monetary judgment, in lieu of foreclosure, since this process can expedite the final outcome by enforcement of the judgment with a sheriff sale of real property, pursuant to CPLR §5236 and execution against the unit. This is an effective tool in obtaining a sheriff's deed that permits the condominium to rent the unit and collect the rental revenue to offset the outstanding common charge arrears.

CONCLUSION

In conclusion and based upon the foregoing, condominiums must immediately implement effective collection procedures and take decisive action against defaulting unit owners in order to limit the potential loss of revenue to the condominium. Moreover, the condominium must address the issue of excessive or unreasonable delays by forcing the lender to accelerate the foreclosure proceedings against the unit owner, since the lender will only be responsible for the payment of common charges at the completion of the foreclosure.

Submitted By: **RONALD A. SHER, ESQ.**

NEW YORK ASSOCIATION OF REALTY MANAGERS

NYARM - SEMINAR: MAY 8, 2018

CAPITAL IMPROVEMENT PROJECTS

CONSTRUCTION DEFICIENCY DELAY CLAIMS

MODERATOR:

MARGIE RUSSELL, EXECUTIVE DIRECTIVE
NEW YORK ASSOCIATION OF REALTY MANAGERS

RONALD A. SHER, ESQ. - SEMINAR MODERATOR

I. TOPIC INTRODUCTION

- "The ABC's of Construction Safety 101- A Primer"
- "The Pitfalls and Problems - Dos & Don'ts - Warnings"
- "Concerns & Consequences of Construction Deficiency Delay Claims "
- "Implementing Safety Protocol & Establishing Procedures"
- "Avoiding Calamity, Catastrophe & Casualty - Averting Disaster"
- "Legal Issues - Indemnification & Hold Harmless Agreements"

II. PRESENTATION - PANELIST:

- Ronald A. Sher ras@himmelfarb-sher.com
Himmelfarb & Sher, LLP 914 682 0040 - www.himmelfarb-sher.com
- Richard Klein rklein@romerdebbas.com & Emil Samman ESamman@romerdebbas.com
Romer Debbas LLP 212 888 3100 - www.romerdebbas.com
- Julie F. Schechter jschechter@mmwr.com
Montgomery McCracken Walker & Rhoads LLP 212 867 9500 - www.mmwr.com
- Russell M. Wolfson rwolfson@sgrlaw.com
Smith, Gambrell & Russell, LLP 212 907 9760 - www.sgrlaw.com

IV. QUESTIONS AND ANSWERS - OPEN DISCUSSION

V. PANELIST RESUME

May 8, 2018

**CONSTRUCTION DEFICIENCY DELAY CLAIMS
NYARM - SEMINAR
PAGE -2-**

THE ABC'S OF CONSTRUCTION DEFICIENCIES DELAY CLAIMS - A PRIMER:

WHO PAYS FOR LATE/DELAYED CONSTRUCTION CLAIMS

IS IT THE CONTRACTOR, SUBCONTRACTOR, CONSTRUCTION MANAGER OR OWNER?

CONSTRUCTION & LITIGATION ATTORNEY'S IDENTIFY TRIGGERS AND RESULTING DAMAGES

TOPICS

- 1. NO DAMAGE FOR DELAY CLAUSE**
- 2. SUBSTANTIAL COMPLETION**
- 3. UNANTICIPATED EVENTS**
- 4. TIME OF ESSENCE**
- 5. FORCE MAJEURE**
- 6. MILESTONE DATE**
- 7. METHOD OF LOSS RECOVERY**
- 8. WILFUL OR MALICIOUS DELAY**
- 9. MATERIAL BREACHES OF CONTRACT**
- 10. LIQUIDATED VS ACTUAL DAMAGES**

THE COMMON CAUSE OF CONSTRUCTION DEFICIENCY DELAY CLAIMS:

- 1. FORCE MAJEURE - UNFORSEEN PROBLEMS**
- 2. FAILURE TO COMPLY WITH SPECIFICATIONS - DEFECTIVE CONTRACT DOCUMENTS**
- 3. IMPROPER USE OF EQUIPMENT**
- 4. DEFECTIVE - DEFICIENT NON-CONFIRMING WORK**
- 5. FAULTY MONITORING AT CRITICAL STAGES**
- 6. NEGLIGENCE, STUPIDITY, MISUSE, VANDALISM & TAMPERING**
- 7. VIOLATION OR BREACH - FAILURE TO COMPLY - SUBSTANDARD DANGEROUS PRACTICES**
- 8. DEFECTIVE EXCAVATION - IMPROPER USE OF BACKHOE/TOOLS NEAR GAS LINES**
- 9. DOB PERMITTING PROCESS - APPROVAL PROTOCOL**
- 10. NEED FOR SUPERVISION, OVERSIGHT & MONITORING OF PROJECT**
- 11. FAILURE TO PROPERLY DOCUMENT CONSTRUCTION DELAYS - MEETING MINUTES**
- 12. CRANE ACCIDENTS**
- 13. GAS EXPLOSIONS**
- 14. PERFORMANCE BOND**
- 15. INSURANCE POLICY - REVIEW COVERAGE**

**CONSTRUCTION DEFICIENCY DELAY CLAIMS
NYARM - SEMINAR
PAGE -3-**

CRANE ACCIDENTS

Inexperienced or Improperly Trained Crane Operator
Failure to Properly Stabilize
Failure to Implement Proper Safety Protocols & Emergency Procedures
Failure to Shutdown During Extreme Weather Conducts

GAS EXPLOSIONS - PERSONAL INJURIES & PROPERTY DAMAGE

Gas Leak & Ignition Source = Boom
If You Suspect a Leak - Smell Mercaptan [Rotten Eggs Sulfur Compounds]
Don't Turn on the Lights or Flashlight
Don't Light a Match or Smoke a Cigarette
Don't Use Phone/Cell or Appliances
Leave the Premises ASAP

March 25, 2015 - 121 Second Avenue, NYC Gas Explosion
March 16, 2014 - 116th Park Avenue, NYC Gas Explosion
July 10, 2014 - 17 Pike Street, NYC - Gas Explosion

GAS LEAKS

Report of Gas Leak
Safety Requirement Shut Down or Termination of Gas Source
Investigate Gas Leak
Perform Repairs
Pressure Test for Integrity of Gas Line - Failure Rate Guaranteed Due to PSI
Access All Apartments - Replace Gas Lines/Connectors - Notify Insurance Carrier

CONCLUSION:

The Board of Directors, together with its Managing Agent, as well as the Architect/Engineer, must implement and establish Safety Protocols and Emergency Procedures to protect the residents and safeguard the Premises during the performance of the Capital Improvement Projects and most importantly monitor same.

The Board of Directors may be the captain of the ship, but the Managing Agent and Architect/Engineer, as well as the Project Manager, are certainly the first mate and navigator; who help select the contractor, manages and/or monitors Capital Improvement Project, keeps a watchful eye, and thereby charts the course, trims the sails, steers the rudder and hopefully doesn't cause a shipwreck, construction accident or gas explosion; or walks the plank, as captain goes down with the ship.

Should you have any legal issues or specific concerns relative to corporate governance issues or establishing strategies for the navigation of Board, please call Himmelfarb & Sher, LLP, White Plains Plaza, One North Broadway, Suite 800, White Plains, NY, 10601, Att: Ronald A. Sher, Esq. Tel: (914) 461-0220 or at law@himmelfarb-sher.com.

Respectfully submitted
By: Ronald A. Sher, Esq.

HIMMELFARB & SHER, LLP

RONALD A. SHER
NORMAN D. HIMMELFARB

ATTORNEYS AND COUNSELORS AT LAW
ONE NORTH BROADWAY
WHITE PLAINS, NEW YORK 10601

TEL: (914) 682-0040
FAX: (914) 682-0387
E-MAIL: LAW@HIMMELFARB-SHER.COM
WRITER'S DIRECT DIAL:
TEL: (914) 461-0220
FAX: (914) 461-0223

RE: RESUME - RONALD A. SHER, ESQ.

Our Firm handles all phases of real estate law involving Condominiums, Cooperative Corporations and Homeowner Associations, inclusive of its representation of Boards of Directors and Managers.

The Firm presently represents numerous cooperatives, condominiums and homeowner associations, as retained counsel, reviewing their ongoing legal needs and governance concerns, review of By-Laws, House Rules and Articles of Incorporation/Declaration, as well as attending to any special litigation or legal issues, including some of the following: preparation and review of capital improvement contracts; mortgage refinancing or debt restructuring; alteration policy, laundry and/or storage facilities; tax certiorari petitions; landlord tenant proceedings; litigation involving a default by a shareholder/unit owner relative to the collection of arrears, improper subletting, unauthorized harboring of dogs, excessive noise complaints, unreasonable disturbances, smoking issues or objectionable conduct, prosecution of cases against contractors relative to construction claims; and foreclosure proceedings.

Moreover, we have litigated residential, condominium and cooperative foreclosures, as well as complex commercial matters and have lectured on the topics of Capital Improvement Projects, Condominium Collection Procedures, Representing Purchasers/Sellers in the Sale or Purchase of a Cooperative and Condominium; and Mortgage Foreclosures.

Furthermore, we have extensive experience relative to the negotiation and/or litigation and ultimate resolution of issues regarding a sponsor's or successor holder of unsold units compliance with the provisions of the offering plan, as well as its adherence to statutory mandates and the Rules and Regulations promulgated by the NYS Department of Law.

Over the past forty years, we have been retained by over 250 tenant associations in the Counties of Bronx, Brooklyn, New York, Putnam, Queens and Rockland and Westchester, as well as surrounding metropolitan areas. During this time we have obtained significant concessions from various sponsors, including but by no means limited to: reductions in mortgages placed upon the Corporation; sponsor financing for purchasing tenants; reductions in purchase prices of individual apartments; increased reserve funds; Board control from inception for purchasing tenants; repair of and/or improvement to the condition of buildings; and increased rights for senior citizens and non-purchasing tenants.

Our Firm has unique experience in real estate transactions including acquisition, development, litigation, syndication and closings, and has represented numerous sponsors relative to offering plans to convert and/or develop property. We feel that this experience is extremely beneficial in our representation of cooperatives and condominiums.

Additionally, our Firm is involved in all phases of bank representation involving residential mortgage and commercial loan closings, as well as foreclosure litigation.

RESUME
NYARM - SEMINAR

As a point of information, we feel proud of the fact that we have been designated by Martindale - Hubbell Law Directory in the Bar Register of Pre-Eminent Lawyers, having achieved the highest rating of legal ability, "AV" since 1997 and celebrated our twentieth anniversary. This rating signifies that both our legal abilities and professional ethics are of the highest standard. Please note that this rating is based upon an independent peer review and constitutes a real honor in the legal community since it represents an acknowledgment of the quality of work associated with our Firm.

Moreover, we have recently been selected as one of "NY Best Lawyers" in 2018 for Real Estate Litigation; and designated as a "Super Lawyer" for 2014 through 2018; and also one of "New York Area's Top Rated Lawyers". Please note, as a result of an independent survey, we were previously named among the Top Ten most active law firms in the New York metropolitan area for the representation of cooperative corporations and condominiums.

Furthermore, we have lectured before the New York State Bar Association Real Property/Cooperative-Condominium Committee; and New York Association of Realty Managers(NYARM Seminars), as well as various bar associations. We were also appointed a member of various committees for the New York State Bar Association Real Property/Cooperative-Condominium Committee, including the Ombudsman Legislation Sub-Committee with respect to the recent rules promulgated by the New York State Attorney General and/or Federal Housing Finance Agency.

In addition, we have written articles concerning governance issues relative to cooperatives and condominiums, which have previously been published in the *Habitat Magazine* and *The Cooperator*.
