

Condo owners sue Corcoran over bedroom confusion

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By Ben Blum

In a case that lawyers maintain could have an impact on the way brokers market apartments, a well-known Manhattan hair salon owner is suing the Corcoran Group, two Corcoran Group agents and designer Cynthia Rowley.

Bailey maintains that the suit will have a broader impact on how apartments are marketed. “Although this subject is covered in every real estate course, the brokerages may have to do extra training to ensure that agents know that a bedroom must have a window,” Bailey said. “This case should also send a message to the brokerage community that they will not be allowed to fraudulently misrepresent the contents of an apartment.”

Hairdresser and salon owner Valery Joseph, who owns a salon by the same name, and his wife Revital Joseph are suing over an apartment they bought that was marketed to them as a three-bedroom but legally had only one bedroom, according to their lawyer.



The case, which is being handled in New York Civil Supreme Court, revolves around the sale of a unit at 354 Broadway in Tribeca, which the Corcoran Group marketed as a three-bedroom. The floor plan, as shown in court documents as well as on the Corcoran Group’s Web site, where it was still posted as of mid-June, clearly shows three rooms labeled “bedroom.”

Two of those rooms, however, have lot line windows and are therefore not legally bedrooms. For a bedroom to legally be a bedroom, it has to meet certain size requirements and have a legal window -- that is, a window that overlooks the street or a courtyard.

The case is still in discovery, and a trial date has yet to be set.

Adam Leitman Bailey, who is representing the Josephs, maintains that the case “will have a large impact on the training of real estate agents and on sales in general.”

According to brokers who spoke anonymously with The Real Deal, it is common practice in New York to call rooms with lot line windows bedrooms, but legally the Josephs are not able to market the apartment as a three-bedroom if they resell it, **Bailey** said.

The Josephs are suing Corcoran and two of its agents, Dorothy Zeidman and Elizabeth Spahr, who brokered the deal, as well as the loft’s previous owner, fashion designer Cynthia Rowley, for \$1.3 million in damages. Both Zeidman and Spahr said it was company policy not to comment, and Rowley

did not return calls for comment.

The damages are based on the Josephs' claim that they are unable to legally market the apartment as a three-bedroom if they resell it. Valery Joseph says that because he can only market the apartment as a one-bedroom, the value of the property is significantly lower than what he paid for it. The loft, on the sixth floor in the D'Arte Building, was sold to Joseph from Rowley in August 2005.

The Corcoran Group does not deny that the two "bedrooms" were not really bedrooms, but points to disclaimers on their Web site and clauses in the contract that caution buyers that information provided to them by Corcoran "is from sources deemed reliable, but no warranty or representation is made as to the accuracy thereof."

Bailey believes that brokers were simply seeking to maximize their profits by illegally marketing property.

"It is common knowledge among real estate brokers that a 'bedroom' must have a window," he said. "It appears that the only green that could be seen was not the result of looking at a tree outside a window but the green in the agents' bank accounts."

Joseph was shown the apartment five times, was provided with the Certificate of Occupancy listing the apartment as a one-bedroom unit and, according to Corcoran, was asked if he wanted to bring an architect to see the unit. However, Joseph only discovered the false bedrooms after the purchase, when he brought in an architect to renovate the space.

Errol Margolin, an attorney for Corcoran, said "if those bedrooms are not legal, it's incumbent on the purchaser to do his own due diligence. Corcoran is not a lawyer and doesn't opine about that." Margolin argued that the legal distinction between a three- and one-bedroom apartment does not really change the value of the property.

Echoing statements made in Rowley's affidavit, Margolin said, "in truth and in fact, the apartment is worth more today than what purchaser paid for it."

Bailey argues, however, that "anyone using this as a three-bedroom is using it illegally. And the resale value is greatly reduced as a result."

Designer Rowley claims that she never met or spoke with Valery Joseph until the closing, so there is no way she could have made misrepresentations to him.

In her affidavit, she said that she is "shocked by the plaintiffs' audacity" in bringing the suit against

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her. Rowley is suing the other defendants for legal fees incurred to fight this suit.

To add to the legal commotion, Margolin was denied a motion he filed in mid-May because he mistakenly filed it on behalf of Citi Habitats. Although Citi Habitats is part of the same parent company as Corcoran, it is not listed as a defendant in the case, and so the motion was denied.

Margolin believes the suit is simply an “attempt to get a discount off the purchase price.” **Bailey** maintains that the suit will have a broader impact on how apartments are marketed.

“Although this subject is covered in every real estate course, the brokerages may have to do extra training to ensure that agents know that a bedroom must have a window,” **Bailey** said. “This case should also send a message to the brokerage community that they will not be allowed to fraudulently misrepresent the contents of an apartment.”