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Real Estate Q&A

Expert Advice for Owners and Renters



Renting and Owning in the Same Building

By JAY ROMANO

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Q. *Is it legal to live in a rent-stabilized apartment and to also own a co-op in the same building?*

A. “It is perfectly legal,” said **Adam Leitman Bailey**, a Manhattan real estate lawyer. “Where the writer could run into problems is with the doctrine of primary residence.” He said there is only one place in which a person can live “primarily.” And under the rent-stabilization law, the stabilized apartment must be used as the primary residence. So if the owner of the stabilized apartment can show that the tenant is not using the apartment as his primary residence, he could start eviction proceedings.

At the same time, **Mr. Bailey** said, the rules of the co-op could require that the owner of the co-op apartment use it as his primary residence, thereby placing the writer in trouble if he claims the rental as his primary residence.

Mr. Bailey noted, however, that there was a slim possibility that if both apartments were being used as a primary residence — for example, using one for the kitchen and dining and the other for sleeping and living — the two could conceivably be treated as a single primary residence without violating either the rent or the co-op rules.