LEGAL LESSONS

ATTORNEY SURVEY 2003

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BEST / WORST BOARD PRACTICES
The most effective board of directors
recognize that its cooperative is not only the
home of many residents but a business as
well. When dealing with the business side,
the best boards act in the best interest of the
shareholders at all times. With each decision,
the financial consequences are evaluated and
great efforts are made to obtain the best product
at the lowest cost. In addition, the best
boards attempt to gain revenue without overburden-
ing their shareholders.
The worst practices regarding a board
of directors usually occur when a board
fails to act in the best interest of the shareholders
and instead acts in the personal
interest of the board member or his/her
family. In one well-publicized case for
which we were retained this past year, the
Supreme Court of the State of New York
found that a Park Avenue cooperative failed
to act in the best interest of its shareholders.
In order to prevent certain persons from
joining the board, the board passed a resolution
prohibiting any shareholder without
a college degree or in litigation with the
cooperative from joining the board. After
being hired by the shareholder who was the
subject of the resolution, we discovered the
board had spent thousands of dollars of its
shareholders' money in an attempt to keep
this shareholder off the board. In this same
cooperative, a board member engaged in
insider dealings, including bypassing city
building laws, to ensure that deals closed
when a board member's spouse acted as the
real estate broker for the deal. Furthermore,
countless hours of the board's time was spent
running for election (including a letter-writing
campaign smearing other shareholders)
rather than governing the cooperative.
Fortunately, most of the boards that we
counsel work together to make their building
a better place to live and are always
interested in making decisions that better
the cooperative.