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When a Subtenant Brings in a Roommate

Q & A

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Q. *A shareholder in our co-op has moved out and now has a subtenant living in his unit. This subtenant went through all the proper co-op application channels, including signing an appropriate subtenant lease. Now this subtenant wants to bring in a nonrelated roommate. Does this require board approval, or does the law allow the subtenant to bring in her own roommate?*

A. **Adam Leitman Bailey**, a Manhattan real estate lawyer, says that the state's roommate law applies only to the relationship between landlords (including co-ops) and tenants (including shareholders). "It does not apply to the relationship between landlords and subtenants," he said. So unless the proprietary lease or house rules provide otherwise, it would appear that the law would not apply in this situation. **Mr. Bailey** says most courts will generally not see the additional occupant as a "change in the subtenancy" and may not allow the board to bar the roommate. "The situation would be different if the original subtenant left, or if there were so many additional people brought in as to cause overcrowding," he said.