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A Fifth Avenue Co-op Says No: Did It Take Subterfuge?

By Christine Haughney

To a certain slice of New Yorkers, it's the kind of gossip that is whispered over lunches at Bergdorf's and mentioned during air kisses at fund-raisers: being rejected by a Fifth Avenue co-op board. But a Turkish businesswoman's story is a bit different. After being rejected by the board at 812 Fifth Avenue, she has spent nearly two years fighting to get back her deposit on the \$3 million apartment.

The case turned on whether the woman, [REDACTED], had tried to sabotage the board interview — that is, deliberately made a bad impression so the board would turn down the deal.

Last week, Justice Louis B. York of State Supreme Court in Manhattan ruled that the seller's lawyers had not proved that she tried to "throw" the interview. So the judge said the seller, Harvey Schuyler, had to return the \$300,000 deposit, plus interest.

Court papers show that Mr. Schuyler's lawyers had relied on e-mails and comments from an unidentified board member. Justice York said that was not enough to show that [REDACTED] didn't really want the apartment.

Adam Leitman Bailey, the attorney representing [REDACTED], declined to comment on the case.

According to StreetEasy.com, Mr. Schuyler had been trying since January 2008 to sell the six-room apartment, which is between 63rd and 62nd Streets. It has French-inspired floor coverings, overstuffed furniture and a Versailles-inspired wall of glass and was first listed it for \$4.95 million with Brown Harris Stevens.

[REDACTED] signed a contract to buy the apartment in March 2009, putting down a 10 percent deposit and promising to pay the rest of the purchase price in cash. The board president, Janet Yaseen, delayed a weekend trip to the Hamptons to be on hand for an interview with [REDACTED] on a Saturday. Court papers say that Mr. Schuyler's broker, Roger Erickson of Sotheby's, was so enthusiastic that the meeting would go smoothly that he wrote, "This is the most welcoming board interview I can remember in over 20 years of selling real estate in Manhattan."

Within three days, the board had rejected her. Court papers say Mr. Schuyler refused to return [REDACTED] deposit because he heard from a board member he would not identify that she had sabotaged the interview to get out of her contract. Lawyers for Mr. Schuyler presented e-mails from [REDACTED] as evidence that she wanted to back out because she had come to believe that the building would not let her college-age daughter stay in the apartment alone.

Evan Schieber, the attorney representing Mr. Schulyer, said by e-mail that “the case was wrongly decided” and that the decision would be appealed.

In the meantime, Mr. Schuyler found another buyer for his apartment. Property records show that Shirley and Ralph Alexander bought the apartment in March 2010 for \$3 million.