

LEGAL QUANDARIES

AND HOW THEY WERE RESOLVED

"AVOID LAWSUITS BEYOND ALL THINGS; they pervert your conscience, impair your health, and dissipate your property," said French writer Jean De La Bruyere in the 1670s, and his statement holds true today. Nothing is more irksome than a long, drawn-out, complicated, and *expensive* legal battle.

Sound legal advice can be a saving grace. That's why *Habitat* asked 21 of New York's top law firms to offer their savvy and creativ-

ity and share with our readers some of the most successful board advice they've given all year.

For our ninth annual survey, we asked: *In reviewing the counsel you gave to your clients over the past two years, describe a legal quandary in which one of your boards became enmeshed, and then tell our readers what you advised them to do and why.*

Their responses follow.

**THE
ATTORNEY
SURVEY**

2004



Adam Leitman Bailey Law Firm

RESPONSE BY Adam Leitman Bailey

TITLE Partner

A small condominium building in Manhattan hired our law firm to resolve problems arising from the faulty construction of a newly built condominium. The heat and air conditioning system worked intermittently while the top floors had water leaks invading various rooms. Other issues included problems with the ventilation system, a defective facade, a non-functioning security system, a faulty roof drainage system, and various other difficulties.

First, all corporate documents and contracts as well as warranties were reviewed and analyzed. Second, an engineer was immediately hired to inspect the entire building and issue a report, which the company was told would be relied on to correct all problems. Third, via e-mail, we collected (separately) all complaints that each owner reported. Fourth, we combined the engineer's report with the owner complaints to ensure that every defect was in the report. Fifth, we then presented to the sponsor the edited report, a separate memorandum of our clients' legal rights, and a wish list asking that the sponsor pay for all of the repairs but allow for the condominium association to hire its own repair crew.

The combined report assisted in ensuring that every problem was rectified. The memorandum showed the sponsor (and its attorneys) that we were ready to go to court if the building our clients thought they had moved into did not become a reality.

After extensive negotiations, the sponsor wrote a check to pay for all of the repairs from various repair estimates obtained by the board. The sponsor was not released from legal obligations until all repairs were finished.

In the end, the board avoided costly litigation, the repairs issues from faulty construction have been corrected, and the board did not have to endure these faulty conditions for many years. Using the above five-point plan (see www.alblafirm.com) permitted the building to solve its problems using a cost effective manner.