STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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DIVISION OF PUBLIC ADVOCACY
REAL ESTATE FINANCING BUREAU

ONE MANAGING AGENT

New York General Business Law Sections 352-eee(3) and 352-eeee(3), which govern the conversions to cooperative and condominium ownership in certain localities in the counties of Nassau, Westchester and Rockland, as well as those in New York City, require that:

> "All dwelling units occupied by non-purchasing tenants shall be managed by the same managing agent who manages all other dwelling units in the building or group of buildings or development. Such managing agent shall provide to non-purchasing tenants all services and facilities required by law on a non-discriminatory basis. The offeror shall guarantee the obligation of the managing agent to provide all such services and facilities until such time as the offeror surrenders control to the board of directors or board of managers, at which time the cooperative corporation or the condominium association shall assume responsibility for the provision of all services and facilities required by law on a non-discriminatory basis."

This requirement has been the focus of numerous disputes brought to this office. As a result, an interpretation of the law has evolved which reflects what the Department of Law, believes to be the intent of the statute as well as the interests of all concerned parties. This includes shareholder/unit owners and rental tenants, and the management company for the cooperative or condominium association which often lacks the capacity or the expertise to deal with rental tenant issues. The Attorney General's office focuses on the non-discrimatory nature of the requirement. That is, rental tenants must be treated no differently from shareholders or unit owners.

Under the Attorney General's interpretation of this statute all residents, both rental and shareholders/unit owners, make requests for certain building-wide services to the <u>same</u> managing agent. When the requested service concerns a building-wide (or common) element, such as heat or repair of a burst pipe, such service must be provided by the managing agent to both tenants and shareholder/unit owners. When

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the requested service, however, concerns a non-building responsibility (i.e. apartment painting, broken bathroom tile, etc.), a shareholder / unit owners must arrange for the service himself or herself. A tenant, makes the request for such service to the managing agent. The request is to be transmitted by the managing agent to the person or entity responsible for such service -- whether it be the owner of the unit or shares allocated to the particular unit or a managing agent designated by such owner for the service. That person then arranges for the service to be provided. Thus, individual apartment repairs in a cooperative or condominium can be done by different people or businesses at the discretion of the shareholder or unit owner; the cooperative's or condominium's managing agent does not necessarily make the repair, although in some cases it may be hired by a shareholder or unit owner to do so.

In order to determine what is a building-wide or common element service, a shareholder or unit owner should consult the current by-laws and proprietary lease of the cooperative or the by-laws and declaration of covenants of the condomium association. A rental tenant need not be concerned about the division of responsibilities since all requests for service are made to the managing agent. The managing agent in turn determines the response to the request based upon the cooperative's or condominium's documents.

Thus, the law requires that the managing agent be equally responsive to rental tenants and to owners or shareholders for building-wide services. In addition, the managing agent must undertake to accept all tenant requests for services, including those for internal apartment services, and forward the requests to the proper person or entity. In this way, all residents are treated in a non-discriminatory manner.

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