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THE 2005 ATTORNEY SURVEY

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IT'S A TRICKY SITUATION. In addition to their daytime jobs, realtors, accountants, architects – and yes, even lawyers – all serve on co-op and condo boards. Inevitably, when making major decisions for the building, potential conflicts of interest can arise. How do you uncover them? How do you handle them? With those issues in mind, for our tenth annual survey, we asked:

“When dealing with a co-op/condo board, what is an obvious (or less obvious) conflict of interest that you have encountered in the past 12 months? What were the potential consequences of the conflict and how did you advise your client to handle it?”

After making certain their answers upheld the best interests of all parties, 27 attorneys from New York’s top law firms disclosed their wisdom to *Habitat*. Their responses follow.

Hankin Handwerker & Mazel

RESPONSE BY Geoffrey R. Mazel
THE Partner

The law states that a board member must disclose his/her conflict to the rest of the board and may not deliberate or vote on that particular matter. Over the past year, one particular conflict we encountered stands out. It involves a cooperative board member who is also a real estate broker. This director is very active in selling units in the building. This situation has led to several instances that could have had negative consequences. The clear problem is that this board member could exert influence over the entire application process and the director’s clients could be perceived to be receiving favorable treatment. Also, this member’s influence could lead to the acceptance of prospective shareholders who might otherwise be rejected. Such an acceptance would not be in the best interests of the co-op. We advised the board that this particular board member should not be involved in the purchase application process in any way. In addition, this board member jeopardized the confidentiality of the process, especially if there were a rejection. We advised this board to be extremely careful in handling any applications brought forth by the broker/board member. So far, there have been no problems.