

The New York Times

Sunday, November 19, 2006

Q & A

Who Gets Rid of the Mice?

Q I am a shareholder in an Upper West Side co-op. Recently, when mice invaded our building, I asked the board to take reasonable action to eliminate the infestation. The board's president said that the co-op was not responsible, since the mice were within the interior of the apartment. Is this correct?

A "I have never heard of a board shifting its responsibility for mice to an individual shareholder," said Andrew Brucker, a Manhattan co-op lawyer. "Mice usually are not isolated in one apartment. They must get into the apartment through the common areas of the building. If they are inside the walls, this is the co-op's common area.

"If they are in the basement, this, too, is the common area. The problem of mice and rats is almost always buildingwide. Therefore, it is logical that the corporation is responsible."

Mr. Brucker said the state's Multiple Dwelling Law stipulates that the owner of a building — the co-op corporation in this case — is responsible for keeping the building clean and free from vermin.

"In fact," he said, "this problem is so serious that the Multiple Dwelling Law also states that every building erected after 1946 must be constructed to be 'ratproof.'"

He added, however, that it is conceivable that in unusual situations a board might try to hold an owner liable for extermination costs.

"If the tenant-shareholder has been so negligent as to cause the problem, the board might take the position that the tenant-shareholder is liable for the extermination costs," he said.

But even in a case like this, Mr. Brucker said, it would be proper for the board to remedy the problem first, then take action against the shareholder.