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## Q & A

### **Co-op Sublet Fees: Who Has to Pay?**

*Q I have been a shareholder in a co-op in Chelsea for almost 21 years. This co-op has always allowed subleasing, but now the board has approved a fee of \$150 a month for shareholders who sublease their apartments. I bought my apartment from the original sponsor in 1986 and have never lived in it. Are there any rules for picking such an arbitrary fee, and do I have any legal recourse?*

*A* "Sublet fees have been upheld by the courts where the proprietary lease includes a provision that board consent to the sublease is required and that the board may set conditions for its consent," said Howard Schechter, a Manhattan co-op lawyer. "So if the writer's lease contains such language, a \$150 per month fee would likely be upheld."

But he noted that the writer bought the apartment from the original sponsor and never lived in it. Under the typical language in proprietary leases, if the writer purchased his apartment from the sponsor as a "holder of unsold shares" — basically, as an investor — he would be exempt from obtaining consent or paying fees in connection with a sublet.

A recent Court of Appeals case held that whether a particular shareholder is entitled to "holder of unsold shares" status will depend largely on the language of the proprietary lease.