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Dealing With Deadbeats

When a shareholder stops paying maintenance on time — or worse, altogether — boards have to move quickly and decisively to get the money that's owed to them.

Step by step. The first action boards should take is to have their managing agents send a notice to anyone who is more than one month in arrears. Sometimes people are traveling or whatever, so you don't want to go after them because you didn't get a check on the first day of the month.

Contact the owner, find out what's happened — for example, maybe click-and-pay or autopay wasn't working — and see if it can be corrected at that level.

If it's more than two months, formal action — usually a default notice under the proprietary lease — has to be taken. The default notice should go not only to the shareholder but

also to the shareholder's mortgage lender. Because the loan is secured by the stock and the proprietary lease, it's in the bank's interest to make sure its security is protected, which means the lender is very likely to either make the maintenance payments or put pressure on the delinquent shareholder.

Paper chase. As for locating the lender, the co-op should have records from the original purchase or any refinancing, including a signed recognition agreement between the co-op, the shareholder and the bank in which the co-op consented to the loan. If you don't have the agreement, you can do a

search on ACRIS, the Department of Finance's register information system, to see if anything was recorded against the apartment. And in the worst case, boards can engage a title company.

Extreme remedy. And if you don't get a cure from a default notice under the proprietary lease? The co-op has the right to commence a summary proceeding in landlord-tenant court, which hopefully will be resolved by payment from the shareholder, because you're looking not to evict someone but simply to obtain the arrears. If that doesn't work, the co-op has the right to commence a nonjudicial foreclosure, in which you notify the shareholder and the lender or lienholder, as well as put a public notice in two or three different newspapers that the apartment will be auctioned off and the shares transferred. It's a drastic move, but if someone has been in arrears for, say, a whole year, the situation does merit that kind of action.

Whatever steps a board takes, it has to jump on the problem. Unfortunately, all too often there are situations where nobody has realized that a shareholder hasn't made payments. The takeaway is to keep a close watch on arrears and act quickly. ■