



**STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
REAL ESTATE FINANCE BUREAU**

**COOPERATIVE POLICY STATEMENT # 3
Resident Application In Tenant Sponsored Plans
To Convert Occupied Premises
(WITH SUGGESTED FORMS)**

COOPERATIVE-CONDOMINIUM POLICY STATEMENT NO. 3

(ALSO APPLICABLE TO CONDOMINIUMS)

The office of the Attorney General of the State of New York has been in receipt of numerous requests by resident-tenants of apartment buildings in the State of New York evidencing interest in making preliminary determinations as to the feasibility of purchasing their residences from the existing owners. These are cases in which the owner is apparently not a moving party.

On the other hand, the Department of Law has also received a considerable number of complaints charging harassment of tenants by other tenants with respect to preliminary discussions applicable to future conversion of their apartment residences to cooperative status.

In addition, there are numerous cases where low income areas are faced with abandonment of housing by owners, and a continuing deterioration of premises because of the owner's failure to adequately maintain and preserve the housing involved.

For all of the aforesaid reasons, the Attorney General of the State of New York has issued Cooperative-Condominium Policy Statement No. 3 for the purpose of adequately granting the opportunity to tenants to make a preliminary survey of the feasibility of purchasing residences from owners in arms length transactions, as well as for the purpose of preventing any undue harassment by one group of tenants practiced on another, or by owners of buildings or selling agents seeking to act under the subterfuge of so-called "tenant-sponsored" plans.

I

Attached hereto is a proposed form by which residents of an occupied building may seek permission from the Attorney General of the State of New York to seek out the interests of other tenants in converting their building to cooperative or condominium status. Certain representations must be made in the ordinary case, although the Department of Law reserves the right to issue such permission in other situations, especially in instances of emergencies involving low income housing in abandonment cases.

In the usual case an amount not exceeding \$250.00 may be solicited from other tenants, if such application is granted. This money must be carefully earmarked for one or more of the following purposes:

- a. to retain counsel for exploration of the legal benefits and pitfalls of converting;

- b. to obtain an engineering study of the condition of the building;
- c. to arrange for conferences and confer with the owner on possible selling prices;
- d. to seek out financing possibilities and budget projections and stock allocation proposals from expert sources; and
- e. to provide adequate funds for the issuance of offering plans and other required material to be filed pursuant to §352-e of the General Business Law.

Cardinal to the issuance of permission for such testing are various representations that must be made by applicant tenants seeking such permission. Among such representations which must be made to the Department of Law are the following:

- a. that the owner or its agent has not solicited the applicants or any other persons with respect to a cooperative plan;
- b. that the proposal is a bona fide proposal initiated by the resident applicants and that no arrangements or secret agreements have been made with the owners;
- c. that no special commissions, inducements, or considerations have been given, promised or paid to any of the applicants, their relatives or others connected through family or business relationship by the owner, or employees or agents directly or indirectly for the purpose of securing the application.

II

The applicants must acknowledge that they are assuming the responsibility as promoters of a cooperative conversion plan under §352-e of the General Business Law.

In addition, provision must be made in the application for a full accounting of the funds raised, preferably in the form recommended in the proposed application attached hereto.

Copies of any engineering reports should be made available to all contributors.

A receipt in adequate form, preferably as recommended in the attached documents, should be represented as to be executed upon the receipt of funds in accordance with the above.

III

The application seeking the right to raise funds from other tenants for the above purposes, should also include a statement that any prospectus filed under §352-e of the General Business Law shall contain the statement "The owner of the premises has read this offering plan and represents that there are no known inaccuracies in factual data contained therein", after obtaining the owners consent thereto.

While the Attorney General reserves the right to waive some of the above requirements where necessitated by the exigencies involved, he also reserves the right to add additional requirements in other cases where he determines this to be necessary in the public interest.

Attorney General, State of New York

APPLICATION BY CERTAIN RESIDENTS

OF _____;

PROPOSED CONVERSION

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

The undersigned, being duly sworn, depose and say:

1. That they are now and each of them has been for the past two years bona fide resident-tenants residing for such entire period at premises _____, a resident of apartment building now owned by _____ corporation.

2. This application is being made in order to determine the interests of residents in this building in the possibility of converting said building to cooperative (or condominium) status by the purchase thereof by an apartment corporation or other entity in which the tenants will purchase controlling interests as part of such conversion.

3. The undersigned represent that no amount in excess of \$250.00 will be solicited from any tenant-resident of this building for the above purposes; that all of said funds will be held in a special bank account at _____ in trust, not to be commingled with other funds, and will be employed exclusively for the following purposes in the event \$_____ is obtained:

- a. to retain counsel for exploration of the legal benefits and pitfalls of converting;
- b. to obtain an engineering study of the condition of the building;
- c. to arrange for conferences and to confer with the owner on possible selling prices;
- d. to seek out financing possibilities and budget projection and stock allocation proposals from expert sources; and
- e. to provide adequate funds for the issuance of offering plans and other required material to be filed pursuant to §352-e of the General Business Law.

4. The undersigned represent that the owner of the instant building has not solicited them or any other person known to them for the sale of such building on a cooperative basis. In addition, it is represented that to the present date there have been no conversations or communications promoted by sponsor or initiated by the owner of the building, or any agent or representative thereof with respect to the conversion of this building. And furthermore, it is represented that this proposal is a bona fide proposal initiated by the undersigned resident-tenants and that no arrangements or secret agreements have been made with the owner or any representative thereof with reference thereto. No special commissions, inducements, or considerations have been given, promised or paid to any of the undersigned, their relatives or others connected with the undersigned through the family or business relationships by the owner, or employees or agents directly or indirectly for the purpose of securing this application.

5. The undersigned acknowledge that by reason of their participation in this venture they, in addition to their responsibilities for the representations herein, may be responsible for compliance with the disclosure requirements of §352-e of the General Business Law if a cooperative plan is proposed by them.

6. The undersigned represent that in the event insufficient monies are obtained from tenant-residents within 60 days from the time this application is granted to provide for all the expenses as set forth in Paragraph 3 hereof, all monies received will be returned to the persons making contributions hereunder. Any interest earned on said monies will be delivered to the contributors pro rata if not expended in accordance with this application.

7. The undersigned will cause copies of any engineers' inspection reports of the condition of the within premises to be distributed to all contributors within one week from the receipt thereof.

8. The undersigned will inform all contributors to the fund that:

- a. all or part of the monies collected may be expended as provided under this application and only part or none of their contribution may be returned to them;
- b. in the event it is determined that an offering plan for conversion to cooperative (or condominium) status is not feasible, no offering plan will be filed by them under §352-e of the General Business Law and no plan may be presented by them to the tenants;
- c. if it is determined that a plan is feasible and same is filed pursuant to §352-e of the General Business Law no contributor or anyone else is obligated by reason of his contribution or otherwise to purchase his or any other apartment under the plan; and
- d. in any prospectus filed under §352-e of the General Business Law

there shall be a statement that "The owner of the premises has read this offering plan and represents that there are no known inaccuracies in factual data contained therein", after obtaining the owner's consent thereto.

9. The undersigned will maintain an accurate record of receipts and disbursements. At the end of every four month period, beginning from the date this application is granted, the undersigned will prepare and deliver to each contributor and to the Department of Law Financial Statements consisting of a Statement of Income and Expenses and a Balance Sheet. Each of the undersigned will sign the following statement which is to be annexed to the Financial Statement:

"We, the undersigned have examined the above Statement of Income and Expenses and Balance Sheet which was prepared from the books and records maintained by us, and represent that said statement fully and fairly discloses the financial condition of the said fund."

A final Financial Statement shall be prepared and delivered to each contributor and the Department of Law at the time of the abandonment of the study or at the time of filing a plan, whichever shall occur first.

WHEREFORE, the undersigned makes application to the Department of Law, Real Estate Financing Section for permission to solicit residents of the aforesaid premises and to collect from them the amounts set forth herein.

<u>SIGNATURE</u>	<u>APT.</u>	<u>LENGTH OF RESIDENCE</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Sworn to before me this
_____ day of _____, 20

NOTARY PUBLIC

**RECEIPT FOR CONTRIBUTION FOR EXPENSES OF
FEASIBILITY STUDY AND FOR FILING OF PLAN
OF COOPERATIVE OR CONDOMINIUM CONVERSION**

**PURSUANT TO COOPERATIVE POLICY STATEMENT
NO. 3 OF THE ATTORNEY GENERAL OF THE
STATE OF NEW YORK**

Address of Building

Date: _____

Received from _____

(Name of Resident)

the sum of \$_____ to be deposited in the _____

(Name of Account)

account at _____ and to be used by the

(Address of Bank)

undersigned for the purpose of employing the services of an attorney, engineer, selling agent and cost of filing an offering plan pursuant to §352-e of the General Business Law.

If \$_____ is not received by _____, all monies

(Date)

will be refunded within ten (10) days after expiration of that date. Otherwise, only the unexpended portion of said fund, if any, will be returned to the contributor in the event of abandonment of this venture. If a plan is determined to be feasible and if an offering plan is filed pursuant to law and presented to the tenants, the contributor is under no obligation to purchase his apartment or any other apartments. The contributor is not liable to contribute any additional amount to this study.

RECEIVED BY:

SIGNATURE FOR

Names

Names on Application:

(_____)

(_____)

(_____)

(_____)

NOTE: This is not an offering of cooperative interest in realty which can only be made by prospectus filed with the Department of Law, State of New York.