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Q & A

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Too Many Condo Units Rented Out

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Q Owners in our eight-unit condominium building have had problems trying to sell their apartments because banks will not lend to potential buyers when owner occupancy drops below 50 percent. Right now four of our units are owner-occupied and four are rented out. Should we amend our bylaws to make sure that owner-occupancy is always above 50 percent? Is this legal?

A It is legal, and amending the bylaws probably makes sense, said Matthew J. Zangwill, a real estate lawyer in Uniondale.

Mr. Zangwill said that the writer was correct in stating that lenders are generally hesitant to provide financing in buildings with a high percentage of nonowner-occupied apartments. "And the problem can be exacerbated when a condominium has a small number of units like this one," he said.

Mr. Zangwill said that it is possible for unit owners to make the building more attractive to lenders by amending the condominium bylaws to limit the percentage of apartments that can be rented out, or even eliminating the right to do so entirely. But he noted that state law requires an affirmative vote of at least two-thirds of unit owners to amend the condominium's governing documents. Because four apartments are already rented out, it may be difficult for the owner-occupants to get the votes necessary to make the change.