

## How Long To Approve?

### Q & A

By Adam Leitman Bailey, Esq.

**Q** I have a one-bedroom co-op in a six –story, 78-unit building in the Bronx on the market for \$53,000 and have a prospective buyer who filled out the board application and provided the financial information required by the board. After reviewing his information, the board interviewed the interested buyer in early March in an empty apartment in our building. Two members of the board—one of whom was the board president—met with the buyer, and after concluding the interview told him they’d be in touch soon. To date no board decision, yea or nay, has been forthcoming. This interested buyer is a cash buyer with a solid credit history. He’s single, stable, tenured schoolteacher.

I’ve read articles in The Cooperator archives about board etiquette regarding approval, but nothing about the reasonable of appropriate length of time between interview and acceptance/rejection. It’s been five weeks—is that too long? I don’t want to incur the wrath of the board by pushing too hard, but I’m concerned that I may lose my buyer. If he is turned down, could mediation possibly make an appeal to the board’s decision? The price of the co-op is small, yet this would be the highest price paid for an apartment in the history of the building, which is 54 percent sponsor-owned and transacts approximately one sale per year.

-- *Bronx Shareholder*

**A** According to Adam Leitman Bailey of the Law Offices of Adam Leitman Bailey, P.C. in Manhattan: “The New York State Legislature and the appellate courts of the State of New York including its highest court—the Court of Appeals—have recognized and validated the vast and sweeping powers of cooperative boards. But, its decisions must be considered by law to be legitimate, in the best interest of the cooperative and its shareholders, and in compliance with the boards’ corporate documents—including the proprietary lease, bylaws, house rules and any amendments. Unfortunately, in almost all cases, the cooperatives corporate documents do not limit or regulate a time period for when an applicant has to be accepted or rejected. Unless the corporate documents of the cooperative indicate otherwise, the board may legally wait five weeks before making a decision. In addition, the cooperative board has the absolute right to reject your applicant for any reason except one that is based on race, religion, sex, creed, national origin, marital status or disability. The board also has the power to permit or reject an internal appeal. The writer should contact the managing agent for the building and politely inquire about the pending application. If to no avail, then the writer should write a letter to the board or contact one of its members for more information. If more than three months goes by without an answer and your sale is in danger you may want to consult a lawyer about seeking legal relief demanding the approval of your applicant.”