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An Inheritance, With Restrictions

Q & A

By JAY ROMANO

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Q. *My mother inherited a co-op in Manhattan, but the co-op board will not give its approval for the shares to be transferred into her name. Can a co-op board do this?*

A. A co-op board may not prevent the estate of a deceased shareholder from being transferred to a beneficiary, according to **Leni Morrison Cummins**, a Manhattan co-op and condominium lawyer.

“The shares pass to the beneficiary without prior approval of the co-op board,” **Ms. Cummins** said.

But, she said, a co-op board does maintain control of who can occupy the apartment. “The right of occupancy is governed by the cooperative’s proprietary lease,” she added. “And most co-op proprietary leases require board approval prior to any transfer of possession of the apartment.”

In other words, **Ms. Cummins** said, the mother has the right to the value of the apartment even without board approval, but generally cannot occupy the apartment without board consent. Some leases, she said, provide for automatic approval of occupancy of the spouse of a decedent, and some may allow a “financially capable” adult child to occupy the apartment.

“But in the majority of co-op apartment transfers by estates,” **Ms. Cummins** said, “possession is subject to the same board approval process as any other transfer.” So while the questioner’s mother has the right to own the shares without board approval, she probably needs board approval to move into the apartment; if she decides to sell it, she also needs the board to approve the buyer.