



REAL ESTATE

Paying for Smoke Detectors

Smoke Detectors, Buying Rental Buildings and Leaky Roofs

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Ask Real Estate

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Ask Real Estate is a weekly column that answers questions from across the New York region. Submit yours to realestateqa@nytimes.com.

Paying for Smoke Detectors

***Q.** My landlord plans to install new dual smoke and carbon monoxide detectors in every apartment in our rental building, and each tenant must reimburse him for the \$50 device. I already have working detectors that were installed a few months ago. Has there been a recent change to city laws regarding carbon monoxide or smoke detectors? Is it legal for landlords to charge tenants for this?*

Upper East Side, Manhattan

A. New York City has been steadily tightening rules about smoke and carbon monoxide detectors. The most recent change, which went into effect this year, requires new smoke detectors to have a nonremovable, nonreplaceable battery with an audible alarm that goes off at the end of the useful life of the detector. This safety feature alerts tenants when the detector is no longer effective.

“It’s desirable from the tenant’s point of view, because you are talking about a much more protective safety device,” said Howard Schechter, a real

estate lawyer. “I think it’s going to save people’s lives.”

Your landlord is allowed to recoup \$25 for a new smoke detector. But if he installs a dual smoke and carbon monoxide detector, he can collect \$50 from each tenant. Your carbon monoxide detector might be perfectly adequate; however, he might have decided to replace all the alarms in the building at once to streamline the process. If you are concerned about costs, you could spread payments out over a 12-month period, paying \$4.16 a month for 12 months.

Although paying for a new device when you already have a functioning one might seem like a waste of your money, try to keep it in perspective: A working smoke alarm will reduce your chances of dying in a fire by nearly 50 percent, according to the New York City Fire Department. So your landlord may be trying to be proactive about following city rules, which would be a good thing.

Issues With Buying a Rental Building

Q. I am considering buying a six-unit multifamily building in Queens. Four of the units have preferential rents that are much lower than the legal rent filed with the city. Am I under any obligation to continue the preferential rents or can I “step up” the rents to the maximum allowable when the leases come up for renewal? Also, how do I claim one of the units for use by the owner so I can live in the building as well?

Sunnyside, Queens

A. Before you start raising rents and evicting tenants, do your homework. Find out why the rent is less than what the law permits. You would think that the landlord of a rent-stabilized building would want to charge as much as he could. So why is he giving tenants a break? Is the rent lower because the market rate in Sunnyside is less than the legal rent? It is also possible that the landlord offered tenants a reduced rent to cover up a problem — like previous unauthorized rent increases.

“Is it really a preferential rent, or is it a rent that the landlord is giving to keep the tenant from complaining?” said Robert D. Goldstein, a landlord-tenant lawyer. “That’s the danger of buying a building where you have a lot

of preferential rents.”

Work with a lawyer who can cull rent history to confirm that the current legal rent is in fact legal. Do this before you begin telling tenants about an imminent rent increase, because once that happens, you will undoubtedly be in for a fight.

While we are on the subject of unpleasant conversations with angry tenants, let’s discuss your aspirations to move into an occupied apartment. You are allowed to do that, but you will have to buy the building in your own name and not as a limited liability company. You will also have to prove that the building is your primary New York City residence, and your argument must be plausible. For example, a judge would be suspicious if you suddenly decided to move from a \$2 million condominium in Manhattan to a one-bedroom rental in Queens. You will also have to prove your financial ability to maintain the building without the rental income from that unit, so be prepared to show the court your finances.

Assuming you clear these hurdles, if the tenant is 62 years old or older or has a disability, you will have to find the tenant a comparable rent-stabilized apartment in another building in the area for the same rent. If the apartment has a distinctive feature like a balcony or a garden, the new rental will have to also include that element. Make sure you hire a lawyer who is familiar with landlord-tenant law to walk you through the process — and again, brace yourself for a fight.

“It is a minefield,” Mr. Goldstein said. “You don’t want to walk through with someone who doesn’t understand where the bombs are.”

Paying for a Leaky Roof

Q. I have lived in a two-story townhouse in a condominium for 15 years. In 2010, a leak from the roof damaged my bedroom ceiling and walls. I repaired the damage inside my unit. I assumed the condo association had repaired the roof, but last January the roof leaked again, damaging my bedroom again. This time, the board directed me to call a roof repair company and I was eventually reimbursed for the \$500 charge. I then received a letter from the board stating: “Due to the

architectural construction of the roof and chimney, the problem will continue to exist,” adding that “modifications to the architectural features are the responsibility of the homeowner.” The letter urged me to correct the problem, which would involve extensive structural work costing \$2,000. Am I really responsible for paying to change the construction of the roof to prevent another leak?

Huntington, N.Y.

A. Few people enjoy shelling out \$2,000 to repair a roof. In fact, the desire to avoid paying for such an expense is a good reason to live in a condominium. In general, condo associations are responsible for maintaining and repairing common elements — like a roof.

You mentioned that you have lived in your townhouse for 15 years. Roofs generally have a useful life of about 20 or 30 years. It is certainly possible that the roof is simply past its prime, and not architecturally deficient.

“The roof may be shot and need to be replaced,” said Matthew Zangwill, a real estate lawyer in Nassau County. “It should be a condo expense to repair that.”

Look to your condo’s declaration and bylaws to confirm that the condo association is, in fact, responsible for the roof. It is possible that the documents say otherwise. Next, write a letter to the condo board or to the condo’s managing agent and request that it repair the roof to prevent future leaks. You might also want to give your insurance company a call. Let them know that the roof has had repeated leaks and the condo association has not adequately addressed the problem. If the association does not fix the roof and a leak happens again, that might help when you file a claim with your insurance carrier.

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