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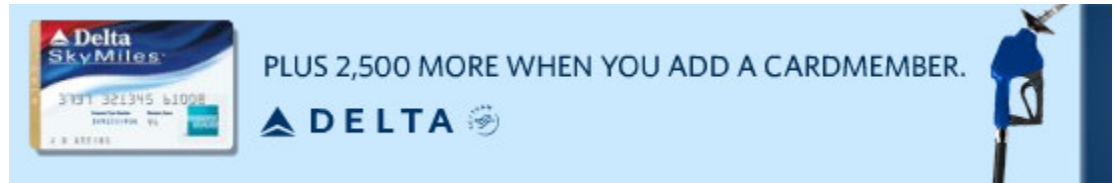
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Q & A

Imposing a Sublet Fee

By JAY ROMANO
Published: August 12, 2007

Q *Would a co-op have to amend its proprietary lease in order to impose a fee when shareholders rent out their apartments? My co-op has no restrictions on subletting, and the board says that because the proprietary lease does not require shareholders to obtain its consent to sublet, the lease would have to be amended before the board could impose a sublet fee. And that would require the vote of two-thirds of the shareholders.*

A “The board is correct,” said Eric D. Sherman, a [Manhattan](#) real estate lawyer. He said that under New York law, a sublet fee would not be permitted unless the bylaws and the proprietary lease contain specific authorization.

“In fact, even if the governing documents contained specific language permitting the board to grant or withhold its consent to subletting, the documents still must contain an additional specific reference to the board’s right to impose a fee as well,” he said.

And while the board may be able to amend the bylaws on its own, amending the proprietary lease typically requires a vote of a “supermajority,” often two-thirds of the shares.

Address questions to Real Estate Q&A, The New York Times, 229 West 43rd Street, New York, N.Y. 10036, or by e-mail to: realestateqa@nytimes.com. Answers can be given only through the column.

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