

As Seen in
HABITAT

BOARD BATTLES

The Day the Roof Fell In

The collapse of the garage at Seward Park was only the tip of a very big iceberg of problems. There had been charges and countercharges levied by shareholders against the managing agent, against the board, against contractors. There were court challenges, purported voting irregularities, and large arrears, and the elevators didn't run properly – you name it, the 1,728-unit cooperative seemed to have it. A dark cloud was hanging over the property.

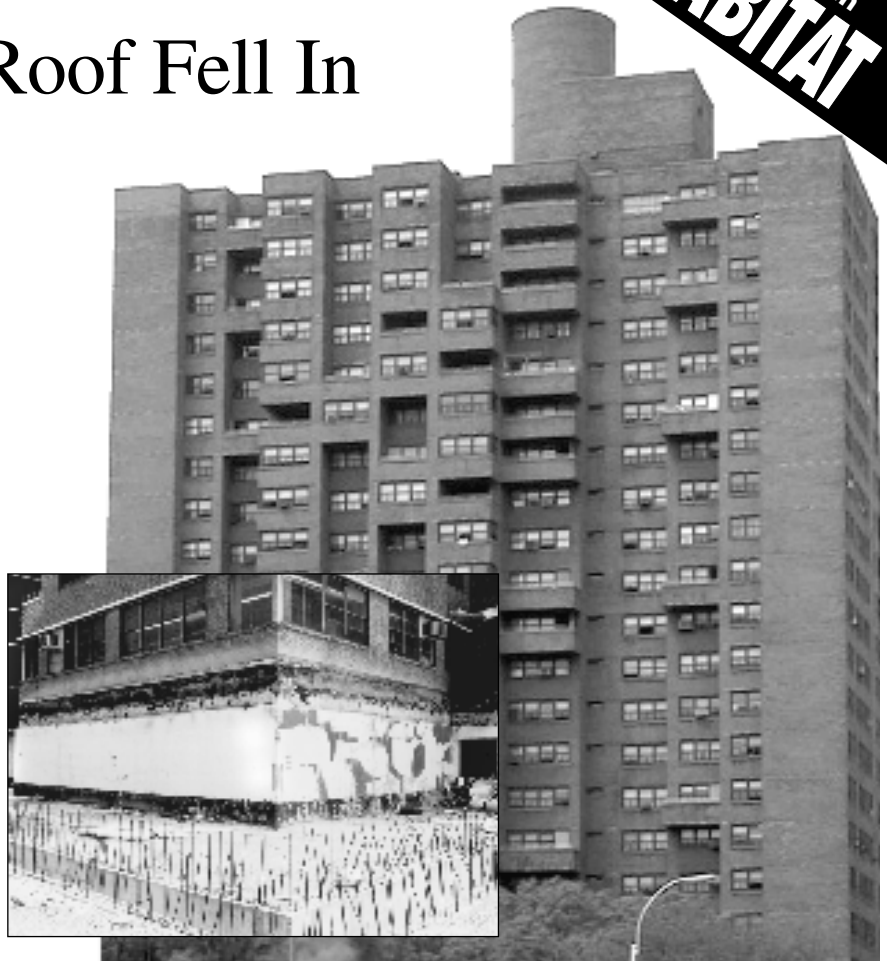
It wasn't always that way. Seward Park, a four-building complex, was built 40 years ago between Pitt and Essex Streets, on the Lower East Side. Seward Park was designed to help, not hinder, its owners. It was designed as a "redevelopment co-op," in which owners could sell but only get back what they put in. The idea was to provide affordable apartment ownership for those in need.

The property, which eventually became a private, "traditional" co-op, has always consisted of families, many of whom have been there since the co-op's birth. Donald West, for one, had lived there since he was a small child. Although he had moved out at various times, he always seemed to return to the familial atmosphere at Seward Park.

"I was born on the Lower East Side, on Lewis and Delancey," he recalls. "I like the neighborhood. I've lived in Chicago, Florida, and Houston but I always get drawn back to the Lower East Side."

Recently, however, he started to become troubled by what he saw. Elevators were breaking down constantly. The hallways and lobby were looking shabby. And the board's response? It hunkered down and didn't communicate with the residents. "I felt there was mismanagement here," he says. "I remember asking the basic question of the manager: if the elevator is broken, who follows up to make sure it is repaired? I just got a blank stare. That was the biggest problem; management didn't follow up on anything."

The 11-member board had been in office for years, running on staggered



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THE BUILDING (top) AND THE REPAIRS (inset): "The board didn't go forward."

terms: 4 one year, 4 the next, and 3 the next, and always ran slates of directors, making it difficult for individuals to break in. West tried for years to get elected but felt stymied by the slate approach. In 1989, however, after running in five different elections, he finally made it to the board.

West soon found himself outside the "club," noting: "There was a group [within the board] that was in charge. They had private meetings and they came and told the rest of us what to vote for and what to vote against. I said, 'If it's right I'll vote for it.'"

A maverick, West was constantly battling with the entrenched powers on the board, but did manage to serve as treasurer, vice president, and finally president from 1992 to 1998. Yet, he was in the minority on most decisions, and felt frustrated.

Things began coming to a head in

January 1999, when suddenly – shockingly – the garage collapsed. It had long been in disrepair, but no one on the board had suspected that it was in such bad shape. In the view of many, the majority on the board and the manager did not react quickly to a crisis that affected the 418 people who had parking spaces.

"The board did not see fit to move until about nine months after the collapse," recalls Steven Danenberg, the current garage committee chairman. "The old board dragged its feet. We had a situation where management was running the board rather than the other way around. The board didn't go forward until the manager said, 'You should select a garage committee to look into this.'"

One problem was that the insurance carrier was denying coverage, arguing that it was a structural defect inherent in the building and therefore not covered

(the co-op is currently suing the insurer). Without coverage, the board had little money for the extensive work needed to repair and refurbish the garage. The board tried to get contractors for the job, and ended up with three. But, during negotiations, one withdrew his bid, while another increased his price to over \$15 million. Nothing was decided. In the meantime, there was, in one observer's words, "no garage. Just a big hole in the ground."

In 2000, frustrated by the lack of progress on the garage and other issues, West took action, putting forth his own slate of candidates. He went door-to-door, gathering proxies in the huge complex. He had enough for a majority – and then civil war broke out.

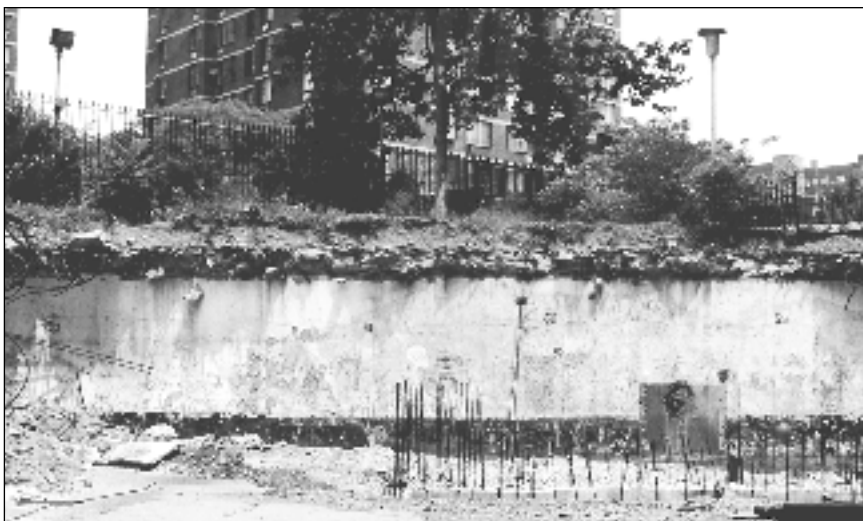
At the annual meeting in June, the board's attorney declared that the proxies West had collected were illegal. West and his slate challenged that assertion and managed to get the meeting – and the final voting results – postponed until November. In the interim, West's group hired Steve Anderson, an attorney with Anderson & Rottenberg, to sue the board over the proxy issue.

West's side won. One of three entrenched board members was forced out and the dissidents were now in the majority. But they still had to work with the disgruntled board members who had formerly run things, creating a tense situation. "It's an unusual board," observes David Kuperberg, president of Cooper Square Realty, the property's current manager. "It is very diverse in its political thinking, and getting things done is a constant challenge. It is hard to get consensus because of how the majority got elected through court action. Some of the board members are still very wary of each other."

Nonetheless, West acted quickly. He replaced the manager, the attorney, and the accountant, and turned to a serious arrears problem. "We had arrears of \$350,000 by shareholders that had never been addressed," he recalls. "It was unheard of." There was arrears on the commercial space, as well.

The new management company was Cooper Square, which assigned Tal Eyal, a vice president and property manager, as the construction supervisor. "We did an analysis of why they were unsuccessful in getting a bid," Eyal notes. "We came to a few conclusions. There was rumor in the industry that the Seward Park owners didn't have enough capital."

Eyal immediately talked with a number of lenders and, then, he and West



SEWARD PARK GARAGE: "Just a big hole in the ground."

finally reached an agreement with Amalgamated Bank. In exchange for taking over the underlying mortgage when it came due in 2005, the lender offered the co-op a \$20 million credit line at, in Eyal's words, "a quite attractive rate," a percent-and-a-half less than the current underlying mortgage of property. In 2005, they will consolidate all of it in a conventional mortgage."

The second problem Eyal discovered was that the requirements in the bid documents were scaring contractors away. "The penalties were extremely harsh," Eyal says. "As a result, a lot of companies did not want to bid. We had to modify it; you need to protect the building, of course, but you don't want to make it impossible for the contractor to do his job."

The manager and the architect also reviewed the specifications, finding areas where costs could be lowered without compromising architectural quality, looking for items over which they could save money and time. "Eyal determined that the drawings and specs by [the previous architect] were grandiose, worthy of the Taj Mahal," explains Danenberg. "Some things could be modified and be a bit more economical."

On another level, Eyal's talks with potential contractors revealed, in the manager's words, that "the board had not been marketing the job on a personal level; in any situation like this, you have to meet with the individual contractors who are offering the bids. A lot of this kind of work depends on interpersonal relations."

Seven companies put in bids on the revised specs, with prices ranging from \$12.5 million to \$17 million. The num-

ber of serious bids was eventually reduced to three and then serious negotiations took place. In May 2001, the \$13.3 million contract was awarded and the garage work was soon on track. To streamline what could end up being a cumbersome process, Eyal was appointed the "owner representative" on the job. The contractor would meet with Eyal, who in turn would meet with the board.

Now, two years after the Seward Park garage collapsed, the owners saw contractors break ground in June 2001. In addition, Cooper Square has aggressively pursued arrears and reduced them significantly ("One person gave us a check for \$23,000 last week," says West).

There is still tension on the board – the outvoted members are appealing the court decision that removed them from power – but West and his majority are moving forward. "In spite of whatever political differences there are, the new board has worked very, very hard to have the garage rebuilt for shareholders," says Anderson, the attorney.

And what are the lessons of Seward Park? The simplest is to prepare for the future. "They had put off work on the garage and had not prepared properly," says Eyal. "In this case, they needed preparation and the right specification, and needed to know how to negotiate to cut the best deal."

West feels it is important to cope with problems not avoid them. "I had a feeling we could get along," he says. "I felt I could get things done by applying common sense. You know, if you take an interest, you can make a difference."

—Tom Soter