

HABITAT HOTLINE

BOARD ISSUES

Rebirth at Seward Park

If the biblical character Job had lived anywhere in New York, it might well have been at Seward Park. Residents at the four-building complex – built 40 years ago between Pitt and Essex Streets on the Lower East Side – didn't face the sort of pestilences Job encountered but they had their own share of bad problems, continuous headaches, and serious crises. Elevators were breaking down constantly. Residents owed thousands of dollars in arrears. Contractors refused to work in the property because of unpaid bills. And, to cap it all off, one night in 1999, the 418-car garage collapsed – and the insurance company refused to pay for its reconstruction.

Now, Seward Park's long nightmare seems to be coming to an end. In April of this year, the 1,728-unit cooperative won a \$12 million judgment against its insurer, capping coming-from-behind victories by the 11-member board on many fronts.

Seward Park was designed as a "redevelopment co-op," in which owners could sell but only get back what they put in. It was not about making a profit but about providing 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.

Problems developed over the years as an uncommunicative board and its resident manager seemed to let difficulties fester. The board had been in office for years, running on staggered terms: four candidates one year, four the next, and three the next. It reportedly became too comfortable.

"They did one another favors, and board members seemed to get favors from management," says one long-time resident who is currently on the board. It was a closed shop, he notes, and the board communicated infrequently with the residents.

Things came 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 president. "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, Greater New York Mutual, denied coverage, arguing that it was a structural defect inherent in the building and therefore not covered. Without coverage, the board had little money for the extensive work needed to repair and refurbish the garage. In 2000, frustrated by the lack of progress on the garage and other issues, new board member

Donald 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 & Ochs, to sue the board over the proxy issue.

West's side won. One of the three entrenched board members was forced out and the dissidents were now in the majority. West, as president, acted quickly. He replaced the manager, the attorney, and the accountant, and turned to a serious arrears problem. The residential arrears bill was at \$350,000 and had never been addressed. There were arrears at the commercial space as well.

The new management company was Cooper Square Realty, which assigned Tal Eyal, a vice president and property manager, as the construction supervisor. He helped the co-op reach 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 one-and-a-half percent less than the current underlying mortgage of the property.

There were other methods the board used to raise funds. The co-op owned quite a few of its apartments and, in a good market, sold a number of them helping to pay for the legal bills in the lawsuit. The building has also been helped by a 15 percent flip tax on all apartment transfers. "So far, we have not had a maintenance increase in ten years," says Mitch Kupfer, a board member and chairman of the garage committee.

In the past 12 months, a number of problems have been or are in the process of being put to rest. Among them:

The co-op won the insurance lawsuit. This was a big win, a long time coming. According to Anderson, the insurance company claimed the collapse was caused entirely by 40-year-old construction defects. "In order for the co-op to recover [money], it had to show that the weight of water played a role in the collapse," notes Anderson. "In the two weeks before the collapse there was a tremendous amount of rainfall – four-and-a-half inches. And the area that collapsed had two-and-a-half feet of thick soil, which was completely saturated with water."

A witness from the Buildings Department testified that the roof was "saturated like a flower pot overflowing." The policy stated that as long as the weight of the water was part of the reason for the collapse, the co-op was covered. Perhaps the highlight of the ten-week trial was a showing of a videotape of the collapse itself, captured on security cameras.

Anderson, for one, is impressed by the board's commitment. "Board members have put hundreds and hundreds of hours in, between the rebuilding of the garage and the monitoring of the litigation, getting involved with me, testifying at trial. There can't be many co-ops in this city who

have had such matters involving such an amount of money of such importance to shareholders over such an extended period of time. It's been a colossal task."

There is the possibility of an appeal, but Anderson says he is not worried. Attorneys for the insurer have no comment.

The board won the proxy lawsuit. The outvoted members appealed the court decision that removed them from power – and lost again.

The arrears problem is under control. Kupfer reports that, with help of its new management firm and its new attorney, the bulk of the arrears – both residential and commercial – have been paid up. "We had one store that owed us \$84,000 and it went out of business," he recalls. "But we still collected every penny of it. We dealt with everyone fairly and mostly we got our due."

The garage has been completed. Begun in the summer of 2001, the work was finished in October 2003, with the residents' cars temporarily housed in a lot seven blocks away that was provided by the city. For a time, the co-op offered a shuttle service to the location.

Capital problems are being addressed. The co-op is spending \$3.5 million to renovate its elevators, and will spend another \$4 million to refurbish the lobbies. There are also plans for landscaping and upgrading of the mechanical rooms. There is also talk of more long-range planning. "In the past, repairs were done on an 'as-needed' basis," says Stoney Welsh, Seward Park's on-site manager. "We're trying to change that approach."

Not quite settled is an ongoing issue common in many older co-ops: the tension between long-time residents and more recent purchasers. "When the building was constructed, people bought for close to nothing," says Eyal. "People in the last few years bought their apartments for hundreds of thousands of dollars. Someone who bought their apartment for half-a-million would like to have a concierge and like to have full service. They're willing to pay more, but the long-time residents are not. That creates a clash."

One step the board and management took to alleviate that problem was to import Welsh from Florida, where he managed a similar property for a company affiliated with Cooper Square. "He's a low-key guy, which is what the property needs," says Eyal. Adds Kupfer: "He's managed a lot of similar-type projects. He has a good understanding of what makes for a proper balance."

Kupfer says his experiences during Seward Park's travails has taught him that successfully running a property is all about patience and priorities. "You're going to have a third of the people who love you, a third of the people who hate you and a third who don't care, one way or another. You have to have enormous patience because you're going to hear more complaints than compliments. That's just natural. It's human nature to blame the people in charge. You should listen to people who have complaints, but don't overreact. Don't drop everything just to do that. You have to understand priorities. Say, 'We'll look at it, but we'll get to it when we get to it.' "

— Tom Soter