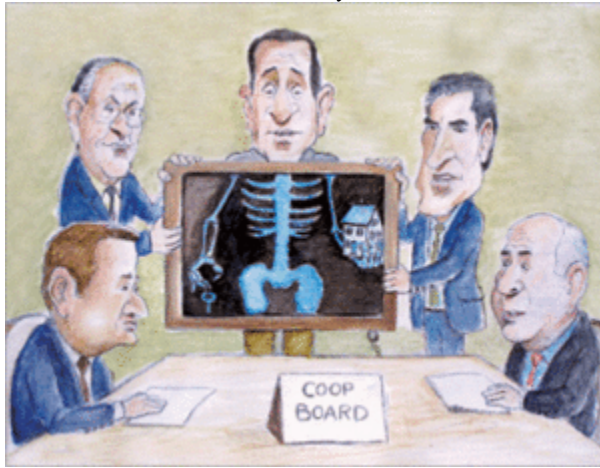


## Gumshoes probe buyers' backgrounds

*Co-op and condo boards increase scrutiny of candidates, looking at everything from past lawsuits to criminal history* November 02, 2009 07:00AM **By Candace Taylor**



In post-Madoff, post-Lehman Brothers New York, co-op and condo boards are taking a turn as gumshoes. Experts say buildings are now conducting increasingly extensive, and often costly, background checks of prospective buyers. The investigations include everything from reviewing litigation history -- to see whether the buyer has been involved in a lawsuit -- to searching sex-offender registries. And to make sure prospective neighbors are properly vetted, more boards are now hiring private detective agencies.

Andrew Harris, CEO of the 110-year-old, Manhattan-based investigative firm Bishops Services, said he's seen an uptick in business recently from residential buildings, and that clients are now requesting more in-depth searches.

"In the last 24 months, [residential business] has increased rather dramatically as people have become more sensitive to really knowing who is moving in next to them," Harris said.

These methods have steadily grown in popularity in recent years, but buildings have become even more skittish about their potential neighbors in the wake of the Madoff scandal and the financial meltdown, which has prompted boards to eye Wall Street buyers with suspicion.

"Boards are being more conservative financially, and they are being very careful about people," said John Serpico, a real estate attorney at Serpico, Serpico & Siddiqui.

Suzanne Sealy, a senior vice president at Prudential Douglas Elliman, said she has noticed more co-op boards commissioning background reports by Bishops Services.

These "Bishops reports," she said, "have been around for years in some of the really better buildings, but other buildings are now looking to do that, too."

Harris said fees vary per applicant; Sealy said she has seen Bishops reports with fees of roughly

\$700, a cost that is generally shouldered by the would-be shareholder, who must consent to the background check being performed.

Potential buyers may not be thrilled to pay for their deepest, darkest secrets to be exposed, but they have little choice if they want to get into certain buildings, said Serpico.

Serpico recently worked on a transaction in a Park Avenue co-op that was delayed for months because the board requested a criminal background check by detective agency Pinkerton Consulting & Investigations. The company, which now has 40 locations around the world, was founded in Chicago in 1850 and gained fame when founder Allan Pinkerton foiled a plot to assassinate Abraham Lincoln before he was ultimately killed by John Wilkes Booth.

But Serpico said this is the first time he's seen Pinkerton reports used in real estate, adding that the investigation took 12 weeks to complete.

While calling in a detective agency may bring to mind romantic images of murder and mayhem, much of what boards want to know is financial in nature. With foreclosures on the rise, buildings want to ensure that an applicant's job and income are rock-solid.

"We primarily are interested in whether they financially can handle living in the building and paying the maintenance in a timely manner," said William Clark, the president of property management firm Lisa Management, which handles background checks for the buildings it manages, like co-op 25 Charles Street. Generally that means calling an applicant's boss to confirm their employment, searching to see if they have a criminal record in the tri-state area, and contacting their bank to verify account balances.

Some boards are going even further. Bishops has performed background checks on co-op applicants for decades, Harris said, but the company is now working for "many more" co-op boards, and the investigations are "going deeper."

"In the past, the work that [Bishops] did was to verify some pretty straightforward information that [the co-op boards] asked the applicants to give them," Harris said. "Increasingly, what we're asked to do is not just verify that information, but build the picture of that application from the ground up to make sure [boards are] not being given fraudulent or incomplete information."

If an applicant was arrested for embezzlement 20 years ago, for example, they might not put it on their application, but it would be uncovered in a Bishops search, Harris said. The company can also gather information from overseas about bankruptcies or liens.

Still, boards' concerns aren't just monetary. Boards have always wanted to make sure that new shareholders will live harmoniously with other residents. But in more recent years, those concerns have taken on a more serious tone.

"After 9/11, everyone started to think about the worst possible cases," said real estate attorney Aaron Shmulewitz, a partner at Belkin Burden Wenig & Goldman.

As a result of that, and high-profile frauds like the Madoff scandal, more buildings conduct criminal background checks to determine if the purchaser has been arrested or convicted of a crime, he said. These searches are often done through screening services hired by the building's property managers.

But buyers aren't off the hook just because they don't have criminal records. It's also now common for boards and landlords to comb through civil records, too. These "litigation checks" determine whether a potential buyer has been sued by a former landlord, which could indicate that they are a problematic tenant.

"They want to make sure you're a tenant who's paying on time," said Richard Grossman, an executive director of sales at Halstead Property and a former co-op board member. "If the landlord is taking you to housing court multiple times, there's often a reason for that."

Conversely, if a buyer has instigated lawsuits against landlords or other parties, it could mean they are more likely to sue over seemingly trivial matters, saddling boards with costly lawsuits, he said. In the current economic climate, that's something they obviously want to avoid.

Another type of background check that's becoming more common is a search of the sex-offender registry.

Shmulewitz said he represented a condo on the Upper East Side that discovered in 2004 that one of its residents was a registered sex offender. The board bought the unit and the shareholder moved out, but the building started doing searches of sex-offender registries before allowing anyone to move in.

Co-ops are within their rights to do these kinds of checks and can reject an applicant for almost any reason, Serpico said. The only exception is that New York City's Human Rights Law makes it illegal for co-ops to reject a potential purchaser on the basis of race, color, sexual orientation or other "protected categories."

Condos, on the other hand, have far less freedom to reject purchasers, and because of their looser restrictions, they tend to attract a larger number of financially unsound buyers, or buyers with "questionable backgrounds," Shmulewitz noted.

As a result, they, too, are beginning to conduct more-extensive background searches.

"More and more condos are requesting this information," Shmulewitz said. "Sometimes, the mere process alone weeds out the undesirables."

Still, Grossman advised that boards should use caution before looking too deeply into buyers' personal lives. A background investigation could turn up something the board didn't know about -- something involving their religious affiliation or marital status, for example -- that would constitute an illegal reason for a turndown, opening the board to a potential lawsuit.

"If you started getting into areas that are nonfinancial, I'd be a little careful," he said.