

# Pushing Co-ops to Explain Why You Can't Buy

By [JANNY SCOTT](#)

Hundreds of thousands of New Yorkers live in the rough equivalent of private clubs — co-op apartment houses with rules that govern everything from admission to elevator-landing décor. In certain circles, the co-op-application-process horror story is as much a dinner-party cliché as the renovation-nightmare saga, the nursery-school-rejection narrative and indignation over excess packaging of food from Fresh Direct.

Now nearly two-thirds of the members of the City Council are co-sponsoring a measure to shed a little light on the shadowy process by which co-op boards decide which apartment buyers to accept and which to reject. To the uninitiated, the council members' aim may seem modest. What they want is for co-op boards to be required to give their reasons for rejecting an applicant, and to do it in writing within five days of rejection.

But the proposal — in a bill that its prime sponsor, Hiram Monserrate, contends is taking too long to get a Council hearing — is stirring up opposition from groups like the [Real Estate Board of New York](#) and the Council of New York Cooperatives and Condominiums, which in recent days began sending out an “action alert” urging co-op boards to contact council members and, if necessary, talk them out of backing the bill.

The bill's supporters, including civil rights groups and the Black, Latino and Asian Caucus of the Council, say it would help deter discrimination based on race and other criteria in violation of fair housing laws. Making co-op boards reveal their reasons would put boards on their best behavior, they say, and give rejected applicants a basis for an informed judgment on whether they had received fair treatment.

“Everyone knows that secrecy hinders severely the enforcement of fair housing laws in the co-op context,” said Craig Gurian, a lawyer specializing in civil rights who helped draft the bill. “We can't pretend that we're a progressive city and then say we believe in vigorous enforcement except if it's in our own backyard.”

The bill's opponents, who include Council Speaker Christine C. Quinn, say federal, state and city laws already prohibit discrimination and offer redress. They say the bill, the Fair and Prompt Co-op Disclosure Law, would let loose a flood of lawsuits, delay co-op sales, discourage residents from serving on co-op boards for fear of liability and impose an administrative burden, especially on smaller co-ops.

“The only one who is going to come out feeling good is the lawyers,” said Marc Luxemburg, president of the co-op and condominium council, which, with the real estate board, recently issued a guide on how to do co-op admissions fairly in response to the threat of legislation. “Anytime you try to give a reason, you're going to get sued. You say the guy was obnoxious at the meeting, he comes in and says ‘I'm going to sue you.’ Every time you turn somebody down, you've got a lawsuit on your hands.”

Some council members say that they agree in principle with the idea of requiring boards to give

reasons, but that Mr. Monserrate's bill is not the best way to make it happen.

"While I appreciate the spirit of what it seeks to do, I'm not convinced that it's actually going to increase the rights of buyers," said Councilman Daniel R. Garodnick of Manhattan.

Currently, co-ops — apartment houses whose residents purchase shares in the cooperative corporations that own the buildings — are free to decide who can move into their buildings and are not required to give reasons. Co-op groups say most rejections are based on applicants' finances. Like any homeowner or landlord, boards cannot legally discriminate on the basis of race, religion, family status and 11 other protected categories; people who suspect that they have been discriminated against can complain to the city's [Commission on Human Rights](#).

"Look, a lot of these things are quite delicate," said Richard Siegler, a lawyer who represents co-op boards and condos. "Does somebody have the financial wherewithal to do it? Maybe someone has been turned down because he is a cheater at the golf club. This is something that is not discrimination, and it's just very difficult to put in formal language or even in every case to give a reason. It has been this way for a long time."

Mr. Monserrate, of Queens, said he was moved to introduce a version of the bill in 2004 after real estate agents in Manhattan and Queens told him they suspected a pattern of co-op board rejections involving applicants from minority groups. Mr. Gurian also suggested that legislation be drafted. The bill received a committee hearing in September 2005 but went no further in that session, so Mr. Monserrate introduced it again last year.

Mr. Gurian, a former legal director and chief counsel at the city's Commission on Human Rights who now operates a largely one-man organization he calls the Anti-Discrimination Center of Metro New York, said he had found from his own experience as a lawyer that the absence of stated reasons given for rejecting co-op applicants made it hard to assess whether a client suspecting discrimination had a valid claim.

Under the bill, a co-op board would have to describe its reasons in detail and reveal the source of any negative information it had used. It would also have to say how many applications it received and rejected in the previous three years. If it failed to turn over the information, or do it on time, it could be fined thousands of dollars.

In February, the Black, Latino and Asian Caucus wrote to Speaker Quinn urging her to work with other Council members to make the bill law in early 2007.

On Thursday, Mr. Monserrate said: "The bottom line is at this point the bill has been there 15 to 16 months. It was introduced in the prior session and heard. We should have had a hearing by now and should have voted it out."

Sandra Mullin, the Council speaker's communications director, said the Housing and Buildings Committee, which would handle the bill, has had a "full plate" in recent months. But she also said, "While it's certainly important to root out any discrimination in the condo and co-op process, this bill does not effectively meet that goal and may have unintended consequences."