

# How to appeal a co-op board turndown

by [Teri Karush Rogers](#) | 1/10/12 - 10:07 AM



A recent New York Times story characterizing 2011 as **the year of the board turndown** held out a sliver of anecdotal hope for rejected buyers: A broker tells the Times that she persuaded an Upper East Side co-op board to reverse its decision simply by resubmitting her lightly-employed client's application, this time with character references.

Intrigued at the notion of a do-over, we asked some closing lawyers and real estate brokers for the lowdown.

Here's what we learned:

## **1. Sometimes it's worth a try, but don't give up your StreetEasy account**

"Turning around a board turndown is incredibly tough," says [Deanna Kory](#), a real estate broker at [Corcoran](#). "It's usually easier to go and buy another apartment than to persuade a board to change its mind."

Rather than reverse a rejection, it's much more common for a board to ask for more information before rejecting, giving buyers a chance to allay anxieties or correct inaccurate or incomplete information.

Most of the agents and lawyers we spoke to could cite only one or two successful attempts to reverse a turndown.

[Closing attorney Sandor Krauss](#) was among those who made clear that not all turndowns are suitable for appeal: "In one out of every 10 rejections, I try to ask the board to reconsider," he says, and the appeal has succeeded only a handful of times.

(On the plus side, he observes, only 2-3% of buyers that come through his office are rejected in the first place.)

## **2. First find out what went wrong**

Before you ask for another chance, it helps to learn why you got the brushoff in the first place.

This is somewhat complicated by the fact that the board doesn't have to tell you. Still, if managing agents know or suspect, they will sometimes divulge--or at least hint at--the reason.

"Ask in the nicest way possible, not in a threatening way, what went wrong and whether there is any way to mitigate it," says Victoria Vinokur, a [real estate broker at Halstead Property](#).

Most turndowns occur before the board interview, but if you did meet with the board, review the meeting in your head to see if there was **something in particular they said to you or questioned you about** that may hint at the reason for your rejection, suggests Krauss.

Sellers too sometimes get wind of the reason for your rejection. Also be sure to review your application package for weakness or inaccuracies.

"It might be one of a million different reasons," says Krauss. The most difficult to ascertain is wrongful discriminatory rejection.

In that situation, says Krauss, your best indication may be circumstantial: "If you're in a protected class based on age or race, for instance, is the entire building comprised of a different class of race?" This is a very difficult case to prove.

### **3. Craft your appeal**

Once you have an idea what went wrong, don't ask permission to resubmit—just do it. A letter from your lawyer to the board and managing agent will probably carry more weight than one from you or your broker.

Krauss says the letter should be pleasant and non-threatening, and say something like, "Look, we really love this co-operative and have done everything in our power to get this done. We feel we are perfectly qualified, and if there is anything else the board would like to see we are happy to provide it. In the meantime, we're sending some extra information, which we thought might help. Or, in the meantime, in case the dog was an issue, I wanted to let you know that our Great Dane is going to live with my brother in Connecticut."

Generally speaking, turndowns for financial reasons stand the greatest chance of being overturned.

"If the decision is income based and you can offer a way to substantiate the income, it might be worth a try," says [closing attorney Cheryl Dresner](#).

There are a number of ways to improve your financial candidacy:

- Offer to put one to two years maintenance and property taxes in escrow
  - Add a parent as a guarantor and/or put them on the proprietary lease too
  - Finance a smaller portion of the purchase price
  - Submit evidence that your debt-to-income ratio improved between the time of your application and rejection.
- Rejections based on discriminatory reasons are generally not good candidates for appeal, notes Krauss, because co-op boards are not likely to admit that the suspicion is correct. (Legal action might be called for, but it's the seller, not the buyer, who has standing to sue.)

### **4. Keep your options open**

[Kevin Kurland](#), co-founder and principal broker of the [Spire Group](#), says he has appealed rejections twice in his career—once successfully, once not.

In one situation, a Park Avenue board turned down a young bachelor who wanted to buy a modestly-priced junior-4.

"Maybe the board didn't want that kind of demographic in the building," says Kurland. After the rejection, he says, "we sent a letter to the board trying to demonstrate that this person was very professional, owned his own business, and had the financial means to carry the apartment and plenty of reserves."

No dice, said the board.

In the other case, a father was buying a co-op apartment for his son, an arrangement that was allowed in the building on a case-by-case basis.

"The application was initially rejected," says Kurland. "We called the managing agent and asked what we could do to sweeten the offer and he said the son's income and assets were a little light, and that he had seen the board approve deals like this with a year of maintenance and taxes into escrow."

They did - and it worked.