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CONDOMINIUMS

An “Insurrection” In Queens

By **BILL MORRIS**

WHEN SHE BOUGHT an apartment in the Gleam Tower Condominium in Flushing, Queens, in April 2008, Jing-Jing Hu was thrilled with her new home. She was, however, unaware of a few crucial things. She did not know, for instance, that this 27-unit building was self-managed. Or that the board members paid themselves a salary for running the building. Or that the condo had run up a whopping unpaid water bill. Or that the parents of one board member were living in a communal space that had no certificate of occupancy. Or that a major jump in common charges was in the works.

Hu didn't learn these things until she attended her first annual meeting in January 2009. She was not pleased. But instead of getting angry, she turned her displeasure into actions that resulted in the removal of the board, her own election as president, and a new course for Gleam Tower.

This “insurrection,” to use the word of one ousted board member, illustrates the importance of knowing how the board operates before you buy into a condo or co-op in New York City. It also serves as a reminder to every board that it serves at the pleasure of the majority.

Jing-Jing Hu's parents were born near Shanghai and immigrated to the United States in the 1980s. Hu was born here. She attended graduate school at Columbia and now teaches elementary school in Brooklyn.

When she attended her first board of managers meeting nine months after moving into Gleam Tower, Hu could have been excused for thinking she had wandered into the Tower of Babel. The meeting was conducted in English, but people were on hand to translate the pro-



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Hu at Gleam: “angry, mystified, and frustrated.”

ceedings into Mandarin and Cantonese. All of the building's residents are either Chinese immigrants or American-born Chinese, and only a small percentage are fluent in English.

Hu, who speaks flawless English, didn't need a translator to understand that something was terribly wrong in her new home. For one thing, the building had been paying an outstanding water bill of \$50,000. Worse, record-keeping was chaotic, and common charges were about to go up.

“There were no financial statements,” she recalls, “and it seemed strange that they were raising common charges at a flat rate of \$100 [per month]. Some of us thought this was unfair.”

So, Hu wrote a letter to the three-member board, asking it to reconsider the increase in common charges and also asking why she had never seen a

financial report. Gary Tung, the treasurer, responded that the flat increase in common charges was designed to protect people who lived in larger apartments and were already paying higher common charges.

Hu was not mollified. In fact, she says, she was “angry, mystified, and frustrated.” She turned for advice to her mother, who lives in a co-op in Flushing that is managed by Tribor Management. The company put Hu and her fellow dissidents in touch with attorney Emanuela Lupu, an associate at the firm of Smith Buss & Jacobs, which represents more than 200 co-ops and condos in the New York metropolitan area.

“They came to me because they had reached the boiling point,” says Lupu. “The board's thought process was that [a flat increase] would make the com-

mon charges more fair. This is really what set everyone off. People in smaller units felt shafted. Hu and her mother realized something was wrong and they tried to get people together,” says Lupu. “That’s difficult to do. There’s a lot of fear of repercussions.”

“Culturally,” adds Hu, “there’s a type of behavior among the Chinese group. They’re afraid of speaking up. This building had a lot of people who were unaware of what was going on, and a lot of people who were willing to go along. They were afraid of confrontation. It’s understood that you just go along.”

Consequently, Hu and her fellow dissidents were fighting on two fronts – against ingrained cultural habits and against a board that had been doing business a certain way since the building first opened in 2000. But with Lupu’s guidance, the dissidents honed a battle plan.

“[Lupu] helped us learn more about how we could get a new board,” Hu says. “That was our goal.”

The first salvo was a “warning” letter Lupu wrote to the board on June 5. It stated that the board had “misappropriated” funds by paying itself a salary; that it had failed to produce annual reports of receipts and expenditures, as required by the bylaws; that it could not increase common charges unless it produced a projected annual budget, which it had not done; and that its flat across-the-board bump in common charges was a violation of the bylaws.

The letter also asked the board to resign and call a special election and to return the money it had been paid in salary. If the conditions were not met by June 19, the dissidents would sue.

Meanwhile, Hu and her group started knocking on doors, gathering proxies from unit-owners who supported a special election and removal of the existing board. The bylaws allow a simple majority of unit-owners to remove the board of managers “for cause,” even without a special meeting. Owners of 17 of the 27 units – 62 percent – signed proxies supporting removal and a new election.

When the board failed to respond to her initial letter, Lupu sent a follow-up on July 2 with the proxies attached. The meeting was finally held on July 26. People in attendance report that the board was “defensive” and unit-owners unleashed “a lot of pent-up hostility.”

By the end of the meeting, the old board was gone and Hu was the new president. One of the board’s first actions was to hire Tribor Management to run the building and sort out its finances. But hard feelings lingered.

Gary Tung, the ousted treasurer, had served on the board since 2001. At the very first board meeting, he notes, unit-owners voted to pay the president and treasurer a salary for managing the building. “It was that way from the very beginning,” says Tung, a New York native who grew up in Chinatown and now works for a major airline. “All of a sudden people objected to the rise in common charges, and their lawyer said our pay was illegal. If everybody in the building voted for it, how is it illegal?”

“A lot of Chinese people in Flushing who move into condos would expect to be compensated for being on the board of directors. If you don’t speak English, you’re dependent on people who do speak English. This wasn’t malfeasance. This [dissident] group pulled us through the mud and made us look like shady characters. Did they need to get a lawyer and a Chinese newspaper involved? It’s not part of the Chinese culture to go to lawyers, or even the police, to settle disputes.”

Beyond those issues, Tung says the building got hit with several unforeseeable expenses – a stiff water bill and costly repairs to a leaky roof, burst water pipes, and the elevator, all of which necessitated the increase in common charges.

“The city didn’t send us a water and sewer bill for six years,” he says, “and suddenly we get a bill for \$50,000. We ran into bad luck with the other repairs, a lot of things that should have been done by the builder. There was no way we could pay for these things without raising common charges.”

Despite his bruised feelings, Tung is optimistic about the future of Gleam Tower. “If people learn from this, it’ll be a good thing,” he says. “I’m hoping Tribor can do a better job of running the building.”

Lupu, the lawyer, says Tung’s wish is already coming true. “Things are 100 percent on the right track now,” she says. “They can’t afford to pay a forensic accountant to do a forensic accounting, so they’re trying to do it themselves.”

The new president says it’s a work in progress. “I have a lot of people helping me with the finances,” Hu says. “The new treasurer, David Li, has a financial background and that’s been a great help. He’s able to crunch numbers. The old board gave us a pile of files and unpaid bills. There was no good bookkeeping. But I feel like the building is slowly getting back on its feet. I’m definitely sleeping better at night.”