Can Successful Bidder of Co-op Shares Recover Possession of Apartment?

October 18, 2013

By Bonnie Reid Berkow

Article 9 of the Uniform Commercial Code provides that a secured party whose collateral consists of a residential cooperative interest used by the debtor and whose security interest in such collateral secures an obligation incurred in connection with financing or refinancing of the acquisition of such cooperative interest (i.e., a lender holding a mortgage on a cooperative apartment) may, upon proper notice as required by statute, sell the shares of stock (the collateral) at public auction without having to bring a foreclosure action or obtain a court order for such sale. This is known as a "non-judicial sale." Recent case law may impact upon the rights of the successful bidder (or its assignee) at a non-judicial sale of shares and proprietary lease appurtenant to a cooperative apartment to recover possession of the apartment.