

Fountains board wants UCP out

By JULIE MACK
Advance Staff Writer

A protracted, seven-year battle over three West Brighton co-operative apartments is pitting the rights of the handicapped against the right of a co-op board to chose its tenants.

The battleground is the Fountains, located at 1000 Clove Rd. On one side of the conflict is the nine-member co-op board; on the other side is United Cerebral Palsy of New York State, which rents the apartments to house 12 severely retarded, multi-handicapped clients, and Nathaniel Ratner, Herman Geiser and Stanley Ginsberg, who lease the

apartments to UCP.

The latest confrontation occurred after the tenants of one of the apartments moved out in April while the apartment was being renovated. When the tenants were ready to return to the unit in mid-June, they found the co-op board had changed the locks on the apartment door.

The state Human Rights Division has gone to court on behalf of UCP in an attempt to force the co-op board to hand over the new keys. But even resolution of that matter would leave the larger issue still open: The co-op board wants UCP out of the Fountains; UCP says its clients have as

much right to live there as any of the other tenants.

A dispute over reasons for the attempted eviction lies at the heart of the struggle. Keith Penman, UCP regional director, says the real issue is discrimination against the mentally retarded. The co-op board denies that: Their attorney, Robert Bruno, says the real issue is power struggle between the co-op board and the three men who sponsored the co-op conversion and own the UCP apartments.

A little background is in order: Ratner, Geiser and Ginsberg built

(See BATTLE, Page A 14)



An assistant gives Doug Desderdick, a resident of the Fountains, a helping hand with his coat.

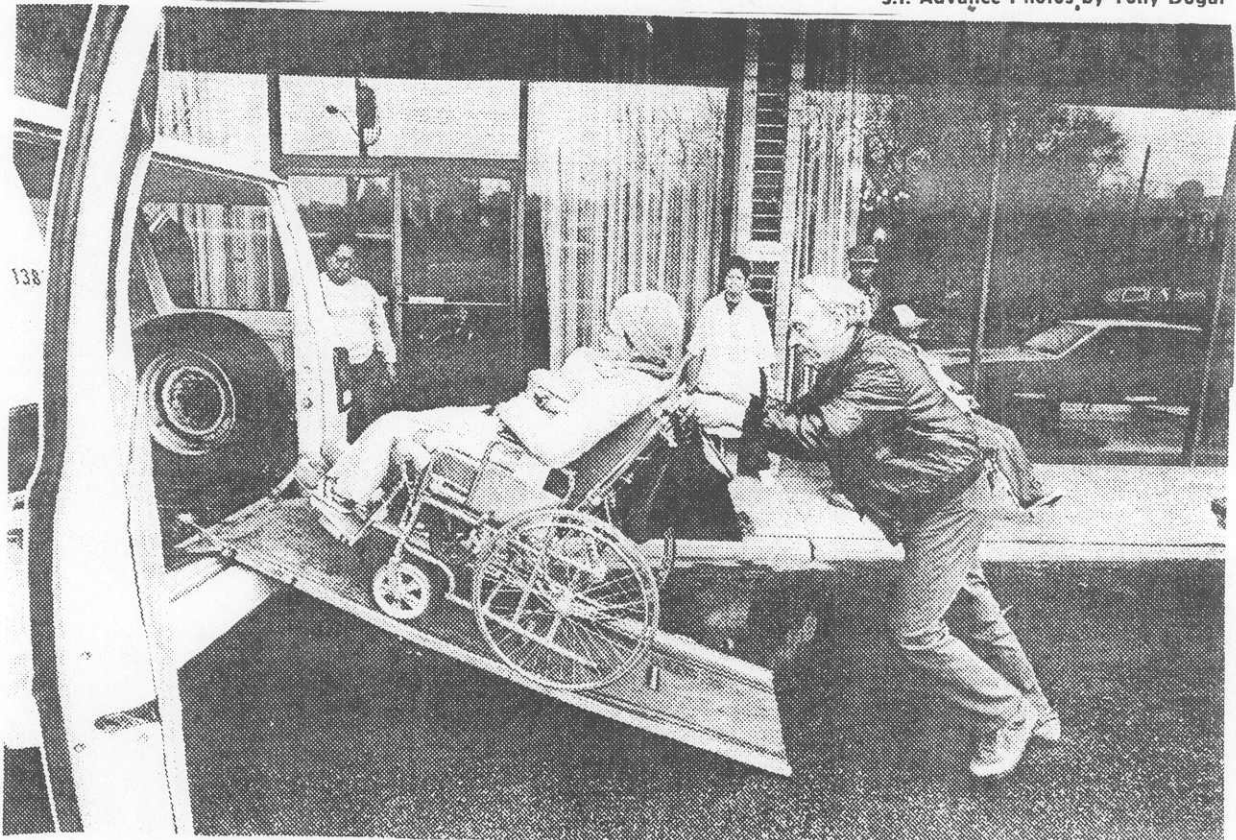
S.I. Advance Photo by Tony Dugat

Page
1
of
4
Page



Doug Desderdick, a resident of the Fountains, plays a video game in his room.

S.I. Advance Photos by Tony Dugal



Desderdick is wheeled into a United Cerebral Palsy van in front of the Fountains.

(From Page 1)

the Fountains in 1967 and sponsored its conversion to cooperative apartments in 1974. They still own a majority of the apartments, including five which were first leased to UCP in 1978. (Four of the apartments have since been combined to form two larger units, so although there are five leases, UCP has three apartments.)

From the first, board members complained about UCP's tenancy, and they were blunt about their objections, according to UCP attorney Glenn Rickles.

"They told us that having retarded people use the laundry facilities and elevator in the building was hurting sales," Penman said. "Unfortunately for them, they didn't hide (their feelings)."

Penman said that in 1981 a subcommittee of the co-op board was formed for the express purpose of convincing UCP to vacate, and that UCP's notes of those meetings include statements by board members about their unwillingness to have severely retarded persons living in the building.

Last year, the case went to Supreme Court when the co-op board tried to get control of the leases from Ratner, Ginsberg and Geiser. That case is still pending. Also last year, the three leasees and UCP filed suit with the state Human Rights Division charging the co-op board with discriminating against the handicapped.

Since that human rights suit has been filed, the co-op board has changed its tune, Penman said, and has steadfastly denied that the eviction proceedings have had anything to do with the tenants' handicaps.

"Their contention now is that we are violating Article 14 of the lease," which mandates that only family members can share an apartment, Penman said. Yet, Penman said, state law says that retarded persons who are living in a group home must be considered a family unit.

Moreover, Penman said, more than 50 apartments in the Fountains are occupied by people who are not related or are used as professional offices. Yet the co-op board only wants to terminate UCP's lease.

Not surprisingly, Penman's version of events is disputed by Bruno, the co-op board's attorney, who says the co-op board feels only "care and concern" for the UCP clients.

Indeed, Bruno says, there are other disabled people living in the Fountains, "and we aren't taking action against them. We have no problems with disabled occupants." (Bruno refused to specify the disabilities of the other tenants; Rickles says there are no other tenants who are mentally retarded or wheelchair-bound.)

According to Bruno, the eviction proceedings were launched because the UCP lease agreement was not properly approved by the board when it was first signed. "When the people who owned the apartments issued the lease, they never asked the board for written approval of the lease, and thus the occupancy is in violation of the co-op's bylaws," Bruno said.

Moreover, he said, the state law which defines handicapped persons as a family unit applies only to zoning regulations and local ordinances, and not to private contracts, which means UCP is also violating that aspect of the lease.

As for the matter of the other apartments with unrelated roommates, Bruno said those situations involve two rather than four unrelated persons living together. He said the courts have decided that landlords cannot deny occupancy to two single persons, although it may deny a lease to larger groups.

If it chooses to do so, the co-op board could overlook the alleged violations with the lease. But Bruno says the board has decided to go ahead with eviction proceedings because of the problems it has experienced with UCP. He said the board has had "a number of problems with the (clients) caretakers," although Bruno refused to get into specifics.

"We never said anything about some of the problems, because every time we complain, it's considered discrimination, even if we have a totally legitimate point," Bruno said. "We've tried to be more than fair to these people."

The attorney said the attempts to evict UCP have been complicated by the board's struggle with the three men who own the apartments. Bruno maintains that Geiser, Ginsberg and Ratner continue to lease to UCP because they are trying to "show their power over the board." (Ironically, Geiser is still a board member; none of the other eight board members has joined him in his support of UCP's tenancy.)

Bruno said the co-op went to court only as a last resort, and it would be willing to settle the controversy if UCP would only agree to start searching for other accommodations.

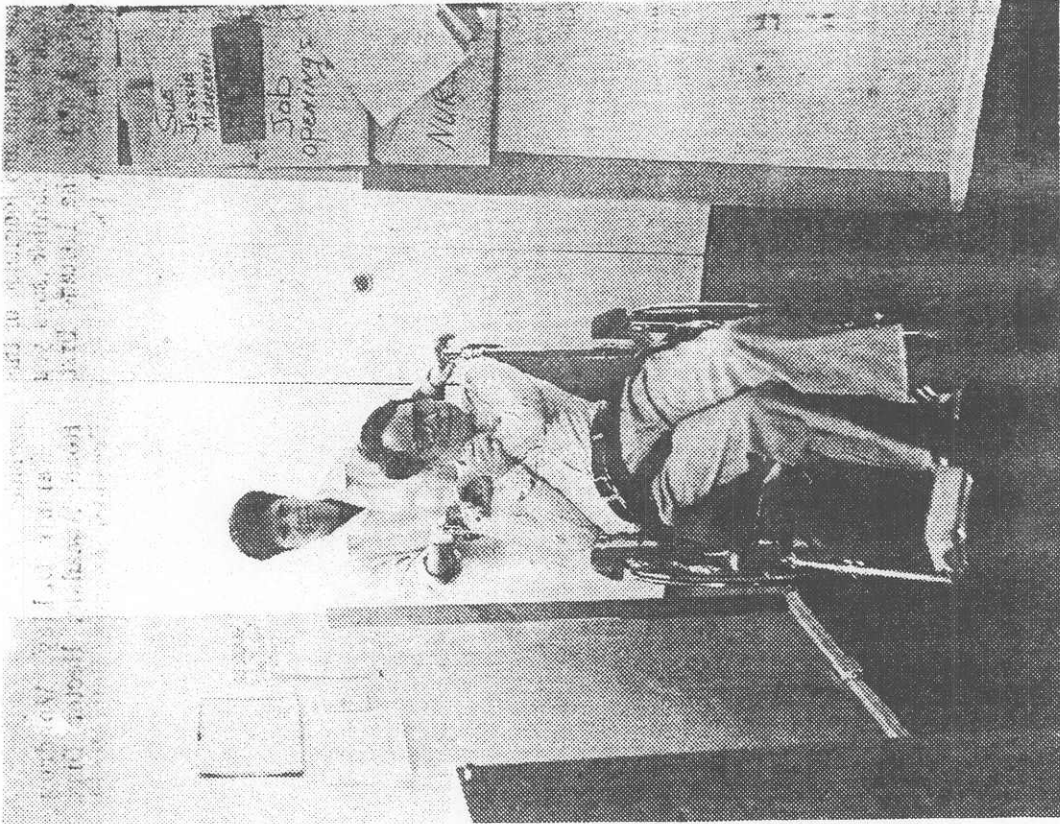
"We told UCP that they would stay here as long as it takes, even if it took 20 years to find other suitable living space," Bruno said. In fact, Bruno said, an agreement to that effect was almost reached, but UCP backed out at the last minute.

Penman of UCP acknowledges that there was a draft settlement in 1983, but that the two sides could not agree on the final details. He added that his organization has since decided to remain at the Fountains. "Why should we have to look for other apartments?" he said.

He and Rickles are convinced that UCP will win its Human Rights Division case, which includes a request for \$125,000 in damages. "I've tried about a hundred civil right cases, and this is one of the strongest I've ever had," Rickles said. "It's very rare in these types of cases to have a smoking gun; but this time, we have a smoking gun. We've got a letter from Bruno that says the shareholders were worried about their property values."

Adds Penman: "We operate about 70 apartments (for the handicapped) throughout New York City and in about half of the cases, we've had to sue to get occupancy or to keep from getting evicted. And we've won every one of them."

Bruno, not surprisingly, says he is confident that his side will be victorious. But if they lose, he says, "that doesn't mean we intended to discriminate. I think we acted in good faith. We have tried to resolve the issue with UCP to avoid all this."



A nurse gives Desderdick some assistance as she wheels him through a hallway.



Desderdick leans back and smiles from a chair in his room.

It bothers him, Bruno says, that UCP is casting him and the co-op board as villains. "My best friend's daughter is a victim of cerebral palsy, and I love her like a daughter," he said. "Some of the board members have disabled children."

"People have testified falsely in this case," he said. "No way would we interfere with the comfort, health and safety of those handicapped tenants, but the leasees (Ginsberg, Geiser and Ratner) have gone on a campaign to show that they can dominate a co-op ... (and) UCP has decided to use this as a test case for putting group homes in co-ops."

The bottom line, Bruno said, is that "in reality, this is a community residence, a group home, and it's something I don't believe any co-op is compelled to have in its building."