



# Leni Morrison Cummins

## Chair, Condominiums & Cooperatives

### New York

[lcummins@cozen.com](mailto:lcummins@cozen.com) | (212) 883-4954

#### Practice Areas

- Condominiums & Cooperatives
- Real Estate
- Real Estate Development
- Real Estate Litigation

#### Industry Sectors

- Real Estate & Construction

#### Education

- New York Law School, J.D., *cum laude*, 2008
- University of Michigan, B.A., *with honors*, 2005

#### Bar Admissions

- Connecticut
- New York

#### Awards & Honors

- Influencer in Multifamily, *GlobeSt*, 2023
- Innovation Award, *New York Law Journal*, 2023
- New York Metro Super Lawyers, 2023-2024
- 2021 Notable Women in Law, *Crain's New York Business*
- *City & State New York*, 40 Under 40 Rising Stars, 2020
- Real Estate & Construction Trailblazer, *National Law Journal*, 2020
- Women Leaders in Law, ALM Media, 2020-2022
- "On the Rise - Top 40 Lawyers," American Bar Association Young Lawyers Division, 2020
- AV Preeminent Rated, Martindale-Hubbell
- The Top Women Attorneys New York Metro Super Lawyer "Rising Star," 2011-2018

Leni has extensive experience representing both the sponsor-developers of condominiums (condos) and cooperatives (co-ops), as well as condo, co-op, and community association boards. Her work on behalf of sponsor-developers deeply informs her work on behalf of boards — and vice versa. She routinely advises clients on plans for new construction and condominium conversions and has extensive experience negotiating issues pertaining to construction, development, and statutory compliance. She is well known for her ability to resolve contentious disputes between sponsor-developers and boards, and frequently mediates fraud claims under the Martin Act before the New York State Office of the Attorney General.

More specifically, Leni represents sponsor-developers at every stage of the new construction or conversion process. She focuses on preventing liability before the first shovel enters the ground and often leads discussions with boards on behalf of sponsor-developers to resolve issues before they escalate. Leni represents condo and co-op boards with respect to construction defects, underfunding, fraud, compliance, and governance. She also provides ongoing general counsel to boards in their day-to-day management of condo and co-op properties. She has experience with crisis management, mediation, negotiation, litigation, and general legal counseling, and her goal is to achieve practical solutions quickly and efficiently.

Leni is a regular contributor to *The New York Times* and has provided legal commentary on *CNN*. She has also written articles published in the *New York Law Journal*, the *New York State Bar Association Real Property Law Journal*, *Real Estate Weekly*, *Habitat Magazine*, *The Cooperator*, and *The Mann Report*.

Leni has been recognized by *The New York Times Magazine* as one of the "Top Women Attorneys" in the New York Metro Area, by *Crain's New York Business* as a 2021 Notable Woman in Law, and by *The National Law Journal* as a Real Estate & Construction Trailblazer. Leni is a 2023 *New York Law Journal* Innovation Award recipient. She has also been named a Women Leader in Law by ALM Media. Leni has been selected as a Super Lawyer, ranking in the top 5 percent of attorneys in the New York Metro Area, has been ranked "AV Preeminent" by Martindale-Hubbell®, and was named an Influencer in Multifamily by *GlobeSt*.

Leni chairs and moderates the well-known Hot Topics Affecting Cooperatives & Condominiums panel sponsored by the New York City Bar Association twice annually, as well as the annual Current Governance Issues in Cooperatives & Condominiums panel. Both are a can't-miss for condo and co-op practitioners in New York City.

Leni earned her B.A., with honors, from the University of Michigan and her J.D., *cum laude*, from New York Law School. She is admitted to practice law in the states of New York and Connecticut.

#### Experience

Represented one of three residential sections and a master condo association of a full-block luxury condominium in Lincoln Square in negotiating a multi-board resolution governing a massive façade restoration project. The residential tower is divided into three sections and the commercial section of

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[lcummins@cozen.com](mailto:lcummins@cozen.com)

P: (212) 883-4954 | F: (212) 509-9492

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the condominium spans four floors. The governing documents made each section responsible for its own façade, but performing work separately would have cost each section millions more in soft costs and time. The 20+ year-old tax maps and ambiguously drafted by-laws created disagreements among the sections. Using diplomacy and construction experience, we negotiated with each section to sign onto a detailed resolution banding the sections together for this large project. The resolution prescribed allocation of expenses, choice of contractor, and appointed delegates from each section for project management. We negotiated the AIA contract for the work and access to units as needed.

Drafted detailed House Rules and By-Law amendments governing two full-floor amenity suites, including health and wellness, fitness, simulators, basketball, squash and racquetball courts, ballroom, spa, and conference rooms.

Successfully managed unit owner communications and claims throughout a six-year construction defect litigation. This representation involved working with the board in drafting notices to owners, producing carefully drafted Q&As, and hosting town hall meetings; addressing unit owner concerns to prevent litigation against the board; securing access to units despite refusal from several high-profile owners; advising the board regarding, and communicated directly with, lenders when banks refused to lend due to construction defect litigation; and managing multiple claims across numerous insurance carriers.

Negotiated a high-stakes settlement on behalf of the board of an iconic luxury condominium to resolve a dispute with the owner of a \$30 million-plus unit who undertook a non-approved retrofit and added a large outdoor pergola that marred the building's architecturally significant exterior. Under the creative, tri-party settlement among the board, the unit owner, and the developer, the retrofit at issue was removed at no cost to the board, while the architecture firm that designed the building redesigned the outdoor space with an aesthetically suitable pergola. This settlement kept a potentially high-profile dispute out of court and the public eye.

Secured a cash settlement for a board of managers of a luxury condominium in New York City to resolve construction defect and warranty claims associated with a customized glass curtain wall, where water infiltration and other defects were observed more than ten years after construction was complete. Through our assistance, the board engaged an engineer who determined that the latent defects were due to the improper manufacturing and installation of the window system. With expiring statutes of limitations and limited warranties threatening to leave the board bearing the cost of remediation, we filed suit and persuaded all of the defendants to agree to the settlement. This outcome was a win-win for the board in that it fulfilled its fiduciary duty to unit owners by vigorously pursuing its claims, and the settlement significantly offset the repair costs.

Negotiated a favorable settlement on behalf of an Upper East Side luxury cooperative board with a delinquent shareholder. The shareholder illegally pledged its shares to a lender for \$9 million and subsequently defaulted on the loan and on maintenance payments to the cooperative. The lender foreclosed on the UCC-1 and was the successful bidder at the foreclosure sale, but because the board never recognized the loan, the cooperative had full leverage over the lender. We used that leverage to negotiate a settlement that made the cooperative whole – receiving all past due maintenance, interest, late fees, and legal fees, and control over the marketing and sale of the shares to a bona fide third-party purchaser.

Represented the board of directors of an iconic Manhattan cooperative in connection with a loan work out involving a lender's collateral interest in the shareholder-borrower's shares of the cooperative. The shares were improperly pledged to the lender without the consent of the cooperative, and the shareholder-borrower was in default under the loan. Through negotiations with the shareholder's lender, we were able to assist with the transfer of the shares to an approved third-party assignee while

simultaneously guaranteeing (i) that all outstanding maintenance and charges owed to the cooperative were paid upon closing and (ii) the discharge of all federal and state tax liens recorded against the cooperative as a result of the shareholder's actions.

Represented board of a Manhattan new construction luxury condominium against the principals of the sponsor. Won motion to keep the principals liable and thereafter negotiated a seven-figure settlement with the principals.

Represented a luxury condominium board in a particularly challenging dispute with developers centered on the gut renovation of a 100-unit, mixed-use condominium in Manhattan. We achieved a favorable monetary settlement for the client as well as an affirmative agreement to bind the sponsor to obtain the final Certificate of Occupancy for the building.

Represented a prominent real estate investment fund known for developing and redeveloping real estate in densely populated, ethnically-diverse urban communities.

Represented New York real estate developer in the creation of mixed-use condominiums.

Represented international real estate developer in planning and creation of its first Manhattan condominium.

Represented hotel chain in due diligence and negotiation of offering terms in pre-purchase of units in a timeshare condominium conversion.

Represented the board of a Brooklyn condominium against its sponsor and architect for construction defects. The Supreme Court of the State of New York upheld all of the claims, and a settlement was reached prior to trial.

Represented the board of a large Manhattan condominium in a dispute with the condominium's sponsor-developer over construction defects and misuse of condominium funds.

Represented the board of a new conversion condominium to pursue the condominium's sponsor-developer for construction defects and underfunding the reserve fund.

Represented the board of a large, new-construction Manhattan condominium in negotiating a multimillion-dollar settlement with a well-known sponsor-developer.

Represented the board of a luxury new-construction condominium against the individual principals of the sponsor-developer. Settled with each principal individually and received an assignment to pursue the General Contractor and its insurance carrier.

Helped the unit owners of a new condominium gain control of their board from a sponsor-developer that was improperly maintaining control.

Represented owners of condominium units situated in four attached condominium buildings against the sponsor, as the buildings needed more than \$9 million in remediation to the exterior, interior, and mechanicals. Negotiated agreement with the sponsor that would lead to a complete buyout of the units or a multimillion-dollar judgment against the sponsor. Unit owners received an \$11 million judgment against the sponsor.

Represented a condo board in the negotiations of an American Institute of Architects contract for a large façade renovation and roof replacement project.

Represented a condominium board in amending governing documents to reallocate expenses between residential and commercial units.

Represented a cooperative board in instituting full building smoke ban.

Represented sponsor-controlled board in negotiating a settlement with unit owners and prevent litigation.

Negotiated a favorable settlement on behalf of a luxury New York City Condominium Board in a law suit filed against the sponsor and sponsor principals over the misallocation of condominium funds and expenses. After development of the condominium and sales of the residential units, the sponsor retained ownership of the commercial portions of the condominium, maintained control of the condominium board, and modified the condominium budget to the detriment of the residential unit owners. After helping the owners take control of the condominium board and uncovering the sponsor's malfeasance, we filed suit, asserting claims against the sponsor-developers and individual principals, and subsequently entered into a standstill agreement allowing room for a negotiation. The final settlement required the sponsor-developers to pay the board hundreds of thousands of dollars, reallocated the budget fairly and properly, and included the installation of submeters.

Successfully devised a novel deal structure on behalf of a developer in connection with a public-private partnership for a planned 350,000 sq. ft. mixed-use development on city-owned land. This deal secured State AG approval for construction to proceed on the project, which represents the largest investment in Staten Island in a generation.

Represented a residential developer facing substantial civil and criminal penalties in connection with a State Attorney General investigation into alleged violations of the Martin Act and 421a tax incentive program, ultimately negotiating a small cash settlement and preserving the client's right to continue with a planned condo conversion.

Successfully represented a luxury condominium board in a dispute with a neighboring developer who overbuilt and encroached by 3-5 feet on the client's property line. Working with a surveyor, and without going to court, we convinced the neighboring developer to remove the encroachment and negotiated the terms of the removal, protecting the client's property from damage.

Resolved a long-standing and hard fought construction defect case on behalf of the boards of three condominiums, securing an agreement from the developer-defendants to perform approximately \$12 million of bonded remedial work, plus a cash settlement to cover the clients' expenses. This case was particularly challenging because the buildings in question sustained flooding during Hurricane Sandy, giving the defendants an argument that the defects at issue were caused by the storm.

Negotiated an access and license agreement on behalf of a condominium under which the client gained access to a neighboring building to perform necessary façade renovations.

Negotiated a monetary payment and various protections for a condominium in a dispute with a neighboring developer who demanded access to the condominium during a long period of construction.

Secured a favorable settlement on behalf of a New York SoHo luxury condominium in a construction defect case filed against sponsor developers, including the single purpose entity developer and its principals. After the court denied the developers' motion to dismiss the individuals from the case – a difficult motion to defeat in New York County – the sponsor came to the table and settled on terms favorable to the condominium.

On behalf of a New York City new construction luxury condominium, we reached a final settlement with a sponsor-developer in connection with a multitude of construction defects affecting the building. Initially, the condominium's sponsor-developer refused to come back and make repairs or pay for the

cost of same. However, with the threat of prolonged litigation combined with tactful negotiations, the sponsor-developer ultimately agreed to pay the condominium a cash settlement, covering more than 80 percent of its original claim and to complete the work and filings necessary to obtain a final certificate of occupancy. This result was particularly welcomed given that it occurred amid the COVID-19 pandemic, with backlogged courts and many sponsors filing for Chapter 11 relief.

Negotiated the favorable settlement of a construction defect case, without resorting to litigation, on behalf of a midtown Manhattan new-construction luxury condominium. Through the tactical use of a tolling agreement to avoid the running of the statute of limitations on the condominium's claims, the board was able to secure from the sponsor-developer millions of dollars of remediation work to the building, as well as a significant cash settlement. The sponsor-developer further agreed to complete the work and filings necessary to obtain a final certificate of occupancy.

Represented condominium board in a multi-phase rehabilitation of the exterior façade of several buildings, and helped them finance the cost of the project.

Represented a condominium board in connection with the termination and eviction of its superintendent, and the subsequent hiring and housing of his replacement.

Represented a foreign sponsor-developer in its first new construction condominium. This representation included drafting the offering plan and working with the construction lender.

Represented a condominium board in connection with borrowing \$3 million to finance capital improvements using its common charge income as collateral.

Represented the board of a large, new-construction Manhattan condominium in negotiating a multimillion-dollar settlement with a well-known sponsor-developer.

Represented a condominium board in negotiating a favorable 99-year lease, including beneficial tax base and escalation clauses, for a portion of the commercial first floor of the building. This lease will facilitate residential use of additional ground floor space and provide an entrance to the building from an adjacent street.

Converted a mixed-use rental building in Long Island City into a mixed use condominium for the purpose of creating separate commercial and residential-use units for tax benefits and financing. The conversion was achieved by No Action Letter from the New York State Attorney General, and we secured the approvals from the New York State Office of Attorney General and the New York City Department of Finance against the difficult backdrop of the COVID-19 shutdown.

Represented Ocean State Job Lot, owner of 150 major retail outlets and many shopping centers throughout the Northeast and Mid-Atlantic states, in connection with the establishment of the company's first commercial condominium. The complex, multimillion-dollar transaction on Long Island, NY drew on the experience of the firm's real estate, government relations, commercial litigation, and environmental attorneys.