



January 23, 2010

If You're Buying a Condo

How Does A Condo Differ From a Co-op?

Unlike a cooperative apartment, a condominium unit is real estate and is no different from purchasing a free-standing house. Accordingly, as a part of your financial obligations, you will be responsible for real estate taxes assessed against your apartment by New York City.

Management of a Condominium

A condominium is managed by a Board of Managers that has significantly less control than a co-op Board does over apartment sales and leasing. As a strong general rule, a Board of Managers only has a right to purchase or lease the unit from the owner (called a "right of first refusal") when a unit is offered for sale or lease. This right of first refusal is almost never exercised and condo units trade with much less restriction. The right of a condo owner to sell his or her unit without Board interference is the most important advantage over co-op ownership. Since there are few restrictions on selling or leasing a condominium unit, some condominium buildings do have a reputation for being more transient in nature. It is true that you will find more investment units in a condo as most co-ops frown upon owners who own but don't live in the building. To discourage investors, co-ops usually limit subleasing to a few years at most. Although there is truth to the notion of transience in a condo, taking real estate and rental prices into consideration, the difference between the quality of life in a condo and the quality of life in a co-op, in many, many cases, is a distinction without a difference.

Why Are There More Cooperatives in Manhattan?

The first condo didn't come into existence in Manhattan until 1964. Accordingly, over eighty percent of the ownership housing stock in Manhattan are cooperatives. When the conversion craze hit in the sixties and seventies, underlying mortgages on co-ops, with low interest rates, dictated that developers convert properties from rentals to co-ops. As time moved on, condos became a more flexible vehicle and co-op conversions faded. Almost all new developments today are condos, as purchasers prefer less restrictions on the ownership of their apartments as well as on the right to sell or lease an apartment.

A Significant Difference: The Warranty of Habitability Does Not Apply

Although there are important advantages to condominium ownership (like the ability to sell or lease an apartment without significant interference from the Board of Managers), there is one significant difference (and perhaps an advantage) to cooperative ownership: the relationship between the apartment corporation and the tenant-shareholder is that of landlord and tenant. As a result, the tenant-shareholder (that is, the owner of shares allocated to a particular co-op apartment) has all of the rights and protections afforded to a tenant under New York law. When a dispute arises either with the apartment corporation or with another co-op owner, the tenant-shareholder may be able to benefit from applicable landlord-tenant protections to help bring the problem to a solution. An owner of a condominium does not have this protection. Simply stated, the condo owner is not considered a tenant for purposes of landlord-tenant law in New York and can't rely on statutory protections granted to tenants.

The Warranty of Habitability

One important statutory protection afforded to tenants is known as the "Warranty of Habitability". Under this law, a covenant is implied into every lease for residential premises in New York to insure that a tenant's apartment and the building in which the tenant is living is "fit for human habitation" and is free from any conditions which would be dangerous, hazardous or detrimental to one's life, health or safety. When a landlord fails to provide these minimum standards, a tenant may be entitled to a rent abatement as compensation. In the case of a co-op, a tenant-shareholder might be entitled to a maintenance adjustment if the apartment corporation failed to provide essential services such as heat, hot water or elevator service or allowed a dangerous condition to exist. When these types of conditions are present in a condo, the condo owner cannot take advantage of the warranty of habitability because the condo owner is not considered a tenant. The condo owner must rely on those remedies applicable to property owners in general, which do not necessarily favor the special nature of the landlord-tenant relationship. The Court of Appeals, New York's highest court, has emphasized that the purpose of the warranty of habitability is to insure that

tenants are provided with a living space that is suitable for residential habitation. The warranty of habitability is not to be used to enforce lease provisions that create higher standards and amenities in particular buildings.

Even though courts may apply the benefits of the warranty of habitability sparingly, when an issue does arise with the Board of Directors of your co-op, raising the possibility of invoking the protection of the warranty of habitability, may create an atmosphere for settlement of a dispute. This negotiation tool does not exist with a condo. For more on the warranty of habitability, see "[The Great Co-op Secret](#)".

Residential Reality

If privacy is a major concern, particularly about disclosing personal financial information (which can be minimized in a condo), if you have sketchy financials or a challenging credit history, or if the ability to sell or sublease your apartment without restrictions is essential for business or other reasons, there's no question that purchasing a condo rather than a co-op is a better way to go.

What Every Buyer Should Know

Here are the basics that every buyer should know on the way to buying an apartment in New York City:

- [Choosing a Broker](#)
- [Selecting an Attorney](#)
- [Give Due Diligence It's Due: Investigating Before You Sign the Contract of Sale](#)
- [Entering Into the Contract of Sale](#)
- [The Application Process](#)
- [Obtaining Financing](#)
- [Closing Costs](#)
- [The Closing: Time To Wrap Things Up](#)

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