



A PROFESSIONAL ADVICE: ACQUISITION RULES

To better understand how to move within the New York real estate market, we interviewed the attorney Filippo Cinotti, legal expert in real estate.

Which are the main steps to buy a property in New York, especially from the legal perspective?

The first step for the purchase of an apartment in New York City is to conduct the so called “due diligence” and negotiate the terms of the Sale and Purchase Agreement. The due diligence process generally requires a review of the offering plan of the Condominium (or Cooperative, depending on the type of property that has been selected) and its amendments, the most recent audited financial statements of the Condominium (or Cooperative) with particular attention to the amount of reserves and net cash flow, and the board minutes.

Additionally, it is important to review the New Department of Buildings records to make sure that there are no open permits for work undertaken inside the apartment and that there has been no work done without permits. After the completion of the due diligence and the execution of the Sale and Purchase Agreement, the parties are required to submit an application to the Board of the Condominium in order to obtain the waiver of the right of first refusal on the proposed sale by the Condominium Board. If the apartment is inside a Cooperative, the Board has the right to approve or reject the sale and purchase application and the purchaser is normally subject to an in-person interview. In the purchase of the apartment is subject to financing, the buyer is normally given 45 days to procure the so called “commitment letter” from the bank and if the bank turns down purchaser’s mortgage application within such time frame, the purchaser may generally terminate the Sale and Purchase Agreement. The acquisition is finalized at the so called “closing of title”, which coincides with the transfer of title to the apartment (or to the shares allocated to the apartment in case of a purchase within a Cooperative), the payment of the balance of the purchase price and the issuance of an insurance policy over the title to the property called “title insurance”.



How long does the purchase process last?

In a cash deal, the closing date is normally 30 days after the Sale and Purchase Agreement is fully executed by the parties. In Sale and Purchase Agreement subject to mortgage financing, a realistic time frame is 60 days after the Sale and Purchase Agreement is fully executed by the parties.

What are the guarantees for the buyer?

At the closing, title to the apartment is covered by the si called “title insurance policy”, which is a form of indemnity insurance which insures against financial loss from defects in title to real property and from the invalidity or unenforceability of mortgage loans. This form of insurance is peculiar to the United States and is not common in other so called “civil law” countries, including Italy.

What are the taxes that you pay during the acquisition?

The seller normally pays a (i) New York State transfer tax equal to 0.4% of the sale price and, (ii) for residential real estate with a purchase price in excess of \$500,000, a New York City transfer tax in the amount of 1.425% of the sale price. The purchaser normally does not pay transfer taxes, except of the so called “mansion tax”, in the amount of 1% of the purchase price, to be paid to the State of New York if the purchase price of the apartment is 1 million dollars or more. If the purchase price is less than 1 million dollars, the mansion tax does not apply.



Attorney Filippo Cinotti

Special benefits to buy through professionals?

We recommend that prospective purchasers of real estate in New York use competent and knowledgeable real estate brokers and attorneys in order to accurately identify the correct investment and make sure that there will be no unpleasant surprises.