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What to Expect When Selling or Buying a Home, Coop or Condo: An Overview for Buyers and Sellers Who May Be New to the Process

For Sellers:

- Establish a price. Your listing broker can advise you on comparable home prices in the neighborhood, among other factors to consider.
- List your property with a broker. In addition to helping you establish a good price for your home, a listing broker can provide assistance to you throughout the whole process from beginning to end. Sellers should also discuss with their broker/prospective broker and with their attorney the documents given to them by their broker/prospective broker for signature. These include the property condition disclosure statement, which generally is not provided to the buyers. In lieu thereof the sellers provide the buyers with a \$500 credit at closing.
- Market/advertise your home. This includes classified ads as well as listing the home on advantageous websites. Your broker will be able to assist and guide you through this process, including the showing of your home to prospective buyers.

For Sellers and Buyers

- Choose an attorney. And make sure the attorney chosen is one who can turn the contract around fast as many a deal is lost because either the sellers' or buyers' attorney does not act fast enough.
- Once an understanding is reached covering such things as the purchase price as well as the amount of the down payment to be deposited by the buyers (which should be held by sellers' attorney). Customarily, buyers put down 10%. However, this often is negotiable— usually a function of the purchase price. Topics to be discussed should also include the anticipated date of closing (which is usually a target date to be modified). This agreement may also cover the amount of financing for which the buyers are going to apply. Of course if the buyers are paying “all cash” and do not need a mortgage, no financing agreement will be necessary. In this case, the price may, on occasion, be modified down a

bit as all cash deals are generally more attractive because the buyers are essentially locked in at that point, subject to other provisions in the contract including clear title. Finally, a schedule for a pre-contract engineering inspection (and perhaps other inspections) should be decided at this point. Buyers should be aware that, with certain exceptions, they are purchasing the property in the condition as exists at the time of contract. Note that an inspection is often skipped for condos and coops as the unit being sold is part of a larger building and so such inspections are sometimes deemed unnecessary. Also be sure to exchange updated contact information for all of the parties, including attorneys and brokers, at this point in the process.

- If you are asked to sign a “binder”—*be sure to show this document to, and consult with, your attorney before signing anything because such binders can be deemed completely binding on you and therefore enforceable against you.*
- Notify your attorney and discuss all of the details of the sale. Sellers must provide their attorney with all documents which may be needed, such as a copy of the deed, certificate(s) of occupancy, survey and a copy of the title insurance policy issued when the home was originally purchased. Note that if the sellers have made certain structural repairs or additions, proof of building code approvals may be necessary, usually in the form of certificates of compliance. If the sellers did not obtain official approvals at the time of the repair or improvement, such approvals may need to be sought and received now, so be sure to build in this process as part of your overall scheduling.
- Usually the sellers’ attorney will prepare a draft contract and circulate it to the buyers’ attorney.
- The attorneys then will negotiate contract terms and, once acceptable to both sides, the buyers will sign and return the signed contract to the sellers (through the attorneys), along with the agreed upon down payment.
- If there is a financing contingency in the sales contract, the buyers must immediately apply for a mortgage. Usually, there is an agreed upon deadline (typically 30-45 days) to obtain a financing commitment. If the buyers cannot, in good faith, obtain this commitment within that time period, the buyers may, according to the contract terms, have the right to cancel and retrieve their down payment. Ideally, financing should be investigated before contract, a lending institution or registered mortgage broker chosen, and a pre-approval letter obtained.
- The buyers’ attorney orders a title search soon after the contract is signed. Even in the case of a coop, the buyers’ attorney usually will order at least a title search to be conducted, in order to ascertain whether there are any liens on the coop apartment.

- The results of title search will be provided to the sellers' attorney. If there are any objections to title raised in the search, the sellers must "clear" them before, or at least at, the closing. (For example, if there are judgments on record against the sellers, these judgments must be satisfied at or before the closing because the sellers must deliver title to the property "free and clear" of any liens. This includes the sellers' own payoff letter from their bank showing that the sellers' mortgage was paid off.) In the case of a coop, if the sellers have any loans against the shares, they must obtain, in addition to a payoff figure, the original stock certificate and proprietary lease which the lender is holding as collateral for the sellers' loan on the coop apartment.
- When all title objections have been cleared, a closing date is established. Note that this date is not absolutely firm yet, (unless the parties have agreed to a "time being of the essence" condition in writing), as there are still many moving parts to coordinate before settling on a mutually convenient date certain.
- Finally the closing date arrives and the closing occurs. Be sure to ascertain beforehand all of the anticipated closing costs. This, of course, should also be addressed before contract so that the sellers are aware of their net and the buyers are aware of the total cost for the property and how much cash over the mortgage they need. Your attorney will assist you in determining what bank checks, in what amounts and to whom they must be obtained, issued and/or delivered. Although this is not an exclusive list, these costs may include, in addition to your own attorney's bill, the cost of title insurance, and the sellers' obligation to pay the NYS transfer tax. Also, if applicable, the NYC transfer tax must be paid. And if the buyers are obtaining a mortgage on the property, the NYS mortgage tax must be paid. For residential properties over \$1 million, the buyers also must pay a "mansion tax" to NY State. Be sure to go over all of this with your attorneys as this list is not by any means intended to be exhaustive.
- At or before closing, the sellers' or buyers' attorney, as the case may be, will prepare and review all transfer documents, review the mortgage loan documents, assist you in the execution of the documents, obtain the necessary title insurance, adjust for real estate taxes and other charges and perform many other services to assure that all provisions of the contract have been complied with.

This summary checklist was prepared by Michael Siris of Solomon & Siris, P.C., a law firm specializing in real estate matters, located at 100 Quentin Roosevelt Boulevard, Garden City, New York 11530 – 516-228-9350. It is presented as a courtesy to local real estate professionals and their clients, and is to be used only for informational purposes. It is not intended to provide, nor should anyone consider that it provides, any legal, accounting, tax or other advice. You are encouraged to contact appropriate professionals to assess your specific needs and circumstances accordingly.

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