

NOT IN MY HOUSE

TOUGH-MINDED CONDO BOARDS MAKE THINGS MUCH TRICKIER FOR BUYERS

By **MAX GROSS**

January 10, 2008 -- Get ready to start groveling. If you follow New York City real estate, you've no doubt heard of its infamous co-ops and their maddening boards. They're notorious for making buyers beg and plead for a spot in the building - poring over financials, conducting background checks, wading through private matters, postponing closings and often shutting out potential residents altogether - without any need to explain themselves. And if you're lucky enough to get into a co-op building and then decide to renovate or (shudder!) sublet your place ... well, good luck.

Don't like it? Buy a condo.

The problem now, though, is that many condo boards are starting to ape their co-op cousins. And while you'll still be able to put less money down (10 percent down is common for condos, while most co-ops require at least 20 percent), the rest of the condo-buying process has gotten a lot harder.

"They provided us with a list of instructions that was, like, 24 pages long," says Jerry Sisk, an aerospace engineer and former Air Force officer who's buying a one-bedroom condo at 300 Cathedral Parkway with his daughter, Shana, in the name of their family trust.

"They wanted me to provide two years of tax returns, they wanted to look at my bank accounts, they wanted to know how long the bank accounts had been around for, where I was going to get the money to pay for the condo. They wanted notarizations and signatures from my CPA and my bank. They wanted notarized signatures from my wife and myself. They looked at my stocks, my bonds, what's in trust, what's not in trust. All my assets, all of my liabilities."

The Sisks also had to sign off on a criminal background check. And even though they struck a deal with the unit's seller in late October, Shana, who will be living in the apartment, was not able to get the green light to close on the Morningside Heights condo until last week.

"I had to be out of my prior apartment by Nov. 30," she says. "I have been homeless throughout the entire process."

She's slept on friends' couches in the interim.

This represents a big shift from the way the condos of yore operated. The appeal of the condo used to be that it didn't adhere to all the Draconian co-op rules and regulations. "The condo application used to be three pages, and you did it by hand," says Mary Jo, a senior vice president at Barak Realty.

"The great thing about condos is that you don't have to rush the sorority," says Holly Sose, a broker with City Connections Realty. You didn't have to impress your neighbors because what did you care what they thought?

But even Sose has had to confront the fact that some condo buildings are changing their tune. She recently found a client - who didn't want to be bothered with a lengthy interview or a financial disclosure - a condo he liked on 26th Street in Manhattan. But when he was asked to cough up all his financial information, he balked.

"He thought the whole process was offensive," Sose says. "He just said, 'Forget this' and took something on 18th Street. On principle, he thought it was dumb."

"I was more surprised than anything else," says Hatim Diab, another buyer at 300 Cathedral Parkway who had to dig himself out of an avalanche of paper after he made an offer on a one-bedroom. "If I can get a loan, why can't that be [the end of it]? Didn't the bank already look over everything?"

The phenomenon is taking place mostly in older condos.

"There's a natural tendency to have some say over who lives in the building," says Jonathan Phillips, a broker with Halstead Property. In new-construction buildings (which don't yet have real boards), most developers are just interested in selling out the building.

"I think it would be crazy for [a developer] not to be helpful to a buyer," says Elad Dror, director of residential properties for the Monian Group.

There are, of course, limits. Immediately after The Post reported in October that cross-dressing millionaire killer Robert Durst looked at the Miraval Living building on the Upper East Side, the developers announced they were legally capable of blocking any deal involving Durst.

"The sponsor has reserved to itself the right to not sell an apartment to anyone that the sponsor believes would have an adverse impact on the unit owners," building attorney Stuart Saft said at the time.

And even with new developments, finances are likely to matter a lot more than they used to, thanks to the credit crunch.

"It's a bandwagon effect," says Jeffrey Katz, CEO of Sherwood Equities. "There's a realization that ... there hasn't been enough caution."

While co-ops have always insulated themselves from financially shaky buyers (such people were simply rejected outright), a condo doesn't have the same flexibility.

"The only say [a condo] has under traditional bylaws is that the board of managers has a right of first refusal," says Harry Gaffney, a real-estate attorney with Simon, Eisenberg & Baum. "If you sign a contract, the board can step in and say, 'We'll buy it [at the same price].' But that's really the limit to their involvement."

In the past, it was a given that a condo board would never actually buy the apartment - unless it was being dramatically underpriced.

"There was a case of that last year at 100 UN Plaza," says Kevin Brown, chairman of Century 21 New York Metro. Rather than see the price of the building diminished, the board stepped in and tried to buy the unit.

"But the buyer immediately upped the offer to \$50,000 or \$100,000 more and [the buyer] squeaked by."

However, this is still relatively unheard of. Most boards don't have millions in cash reserves lying around.

And there are many more ways condos are making life tough for potential buyers.

"They're not exactly exercising right of first refusal," says Prudential Douglas Elliman Managing Director Jacky Teplitzky. "It's more subtle than that. They're coming back with more and more questions. And [they'll do it] until the contract will expire and the buyer has the opportunity to walk [away from the deal]."

Condos are also getting more nitpicky about what goes on in the building. House rules are being beefed up. They're getting "much more stringent about when [renovation] work can be done, when elevator service can be used and having architects look at what you want to do in your apartment," says Donald Trump Jr., who was recently involved in a flap with the condo board in the Trump Place building where he lives. (Trump was kicked off his board and had to maneuver his way back on.) "It's definitely gotten more intensive."

Renovations, pets, subletting, even smoking in your apartment are all now going through boards.

"They're asking for more insurance on renovations," says Teplitzky about her own Upper East Side building, which recently went condo. "If the insurance was \$1 million, they're now talking about \$2 million. And I'm not talking about for moving walls. I'm talking about just a paint job."

"I am dealing with one building right now that is considering amending their house rules to prohibit smoking in the condo," says Luigi Rosabianca, a real-estate attorney with Rosabianca & Associates, who sits on numerous condo boards throughout the city.

Can the building legally do this?

"Sure," says Rosabianca, "when it's having a pejorative effect on the quality of life."

"Another thing I'm seeing is zero tolerance" when it comes to not paying common charges, says Rosabianca. In some cases, he notes, the boards are filing liens against owners who are late on their common charges - and tacking on late fees.

All of the annoyances are clearly having an effect on condo buyers.

"I had a client who was looking at three properties in a row on Riverside Boulevard," says Constance Southwick, a broker with the Corcoran Group. Two of the three condos had restrictions on pets. The client picked the building that allowed pets, even though she herself didn't have a pet.

"She went for 220 [Riverside Blvd.] because of resale concerns," says Southwick. "New Yorkers are big into their dogs. She thought it would be easier at some point in the future and not discourage potential buyers."

Going overboard

'The board met on Dec. 12; I got a phone call on Dec. 11 at 5 p.m. saying I had to completely redo the package in my name - they had my package sitting there for two weeks! All my belongings were locked away in storage so I had to go online and beg people to send me faxes immediately. One of my friends is a corporate attorney, so at 10 o'clock at night, I had to go to her office to get documents notarized. '

- buyer Shana Sisk

I had a delay in signing

a contract when my buyer's attorney [was] reviewing the minutes of the board meeting, and they were altering the existing pet policy ... she wouldn't have even tried to buy in the building if there was a no-pets policy! '

- Corcoran Group broker

James Cornell

'What you will see is limitations on short-term leases ... if you're going to lease out your condo, your [renter has] to sign a one-year lease. '

- real-estate attorney

Luigi Rosabianca

'The board just dragged their feet until my client's lawyer sent a letter saying, 'You have gone beyond your duties to the building - you're not acting as a board member, you're acting as an individual and you'll be held liable.' My client got the waiver [allowing him to buy] three hours later. '

- Century 21

NY Metro chairman

Kevin Brown