

As seen in:

The New York Times

# The Case for Hiring a Lawyer

By JOSEPH PLAMBECK

Published: September 30, 2011

FIRST-TIME buyers in New York City confront a series of choices: co-op or condo, high-rise or walk-up, a second bathroom or just steps from the subway? But there seems to be consensus on at least one decision — whether to hire a real estate lawyer.

In New York, unlike most places in the United States, it is customary for buyers to seek the representation of a lawyer throughout the purchasing process. Although this is not a legal requirement, some longtime real estate agents say they have never witnessed a deal completed without the buyer's having a lawyer on hand.

"I would never, never have a situation where a buyer did not have an attorney," said Deanna Kory, a senior vice president of the Corcoran Group. "Without question, there is too much to understand. You can't understand it on the fly."

Buyers in New York City rely upon lawyers because real estate transactions can be extraordinarily complicated. In addition to the usual concerns about contracts, liens and titles, New York's numerous co-ops have financial statements and meeting minutes that require scrutiny. Buying a condo, and even a single-family home, can be equally knotty. Not to mention that the sellers on the other side of the table usually come armed with their own lawyer.

And then, of course, there is the simple fact that real estate in New York is expensive. Making a bad deal can jeopardize huge amounts of money.

"You're signing the largest check you've ever signed," said Gary L. Malin, the president of the brokerage Citi Habitats, "and you want to make sure that you're not missing something. To not engage an attorney — you'd feel naked in the process."

Lawyers also provide a necessary buffer in what can be an emotional process. Peter Graubard, a real estate lawyer since 1994, said lawyers were able to provide an objective assessment even while advocating for buyers.

"I'm really the only involved party whose fee doesn't depend on the deal closing," Mr.

Graubard said. "I get paid for my lack of a conflict of interest."

Mr. Malin, who worked for a short time as a real estate lawyer before joining Citi Habitats, says it is especially important for first-time buyers to have a lawyer on their side. A real estate agent can help with some aspects of the process, but a lawyer is the one who performs crucial due diligence and helps finish the deal.

At the start of the buying process, the lawyer helps negotiate the contract. Michael P. Kozek, a lawyer at Jeffrey S. Ween & Associates, says that most of the drafting is done by the seller's lawyer, but that there should be a chance to review the terms and try to adjust them.

The buyer's lawyer will also dig into the information available about a property, looking at a co-op's finances and the minutes of its board meetings. Some buyers with a background in finance believe they can handle this part by themselves. But, Ms. Kory said, they may not know the customary tax breaks and accounting methods used by co-ops, which can lead to serious misunderstandings.

Michael W. Goldstein, a lawyer who has handled residential real estate deals for more than 20 years, says an experienced lawyer is also easily able to spot in the board's minutes any issues that may percolate into problems. Perhaps there is talk about a loud resident who is to be the buyer's neighbor, or discussion of a balky boiler that may need expensive repairs not accounted for in the building's capital improvement plan.

Because experienced real estate lawyers see a lot of contracts and know the customs, they can also help cut through roadblocks. For that reason, Ms. Kory said, it is usually a mistake to hire a lawyer who does not have extensive familiarity with residential deals.

Lawyers and real estate agents both say that the best way to find a lawyer is through word of mouth, in the best case from a friend or a family member. But if that option is not available, real estate agents are often happy to refer someone with whom they have worked.

Ms. Kory says she often advises clients to talk to two or three lawyers, and then choose one, before making any offer on a home. That might seem premature, she said, but having



good representation lined up can help ensure that you get the home you really want.

"Having a lawyer makes you look more capable of following through on the deal," Ms. Kory said. "Even if you are the only one bidding, you will come across stronger if you have all your ducks in a row."

Buyers should have a few simple questions ready for prospective lawyers. First, ask about residential real estate experience — generally, more is better. Find out about experience with closings for homes similar to yours, or even in the building you are considering. Then find out how much of the work would be done by the lawyer personally, and how much (and which parts) would be handled by a paralegal.

And ask if the charge will be a flat fee or based on an hourly rate. In general, residential real estate lawyers in New York charge a fee, often between \$1,500 and \$2,500. More complicated or expensive deals, like buying a multifamily brownstone, for example, can take the tab closer to \$5,000.

In most cases, that fee will cover a few hours of face time with the lawyer, his or her presence at the closing and a few conversations over the phone. The lawyer will spend several additional hours examining the paperwork and performing due diligence. The buyer also receives something else: more peace of mind.

"The reality is that most people are not well versed in real estate law," said Mr. Malin of Citi Habitats. "There are a lot of things that could potentially go wrong in the process. And you could very likely regret not spending the money."