

Due to a number of factors unique to the New York City market, the home buying process here is a particularly complicated and stressful endeavor. The below presents a description of each phase of the process and should serve as a good primer for those who are considering buying NYC real estate.

Preparation. When you decide it's the right time to start looking, it's important you do a few things to prepare for your search:

1. Lease. Determine how much time is left on your lease. Finding the right apartment can often take months, especially with inventory continuing to remain at historically low levels relative to demand, and with many co-ops and condos, once you enter into a purchase contract, it can take up to 90 days to close if you are financing.

2. Finances. Take a long and hard look at your finances to determine what you can afford and what you want to spend. Most buildings require at least 20% down, and most co-ops will only accept applicants that meet certain financial criteria. Enclosed with this handout is the form of REBNY financial statement that you will typically be required to submit with your offers. The financial statement is essentially a personal balance sheet and statement of your income and allows the seller and his/her broker to perform some preliminary underwriting on you to determine the likelihood that you will get the necessary loan to purchase the unit and be able to pass a co-op board (where applicable).

Co-op boards typically require a **debt-to-income ratio** of 25% and **post-closing liquidity** of 24 months of your fixed monthly costs. The debt-to-income ratio is arrived at by dividing your annual fixed monthly costs (including your mortgage and maintenance costs) by your gross annual income. Many co-ops also include discretionary bonus income in this calculation, but some don't. Post-closing liquidity is the sum of all of the cash and other liquid assets you will have after the closing.

3. Real Estate Broker. Today's market is extremely difficult for buyers, which makes it more important to engage an experienced broker to guide you and represent your interests throughout the homebuying process. Hiring a broker on the buy side costs you nothing (the seller pays the entire commission, which is split between the buyer's and seller's brokers; if the buyer does not have a broker, the seller's broker keeps the entire commission – in today's strong seller's market, it is rare to negotiate a lower purchase price to adjust for your not being represented by a broker). If you decide to work with a broker, choose one you can trust and who will not pressure you to do anything you are not comfortable doing. It is important to have someone honest and knowledgeable by your side during the potentially long, winding, bumpy and stressful road to finding your home.

4. Mortgage. Contact a mortgage professional to get pre-approved and figure out what kind of loan you will be able to obtain. If you are financing your purchase, your offer will not be taken seriously unless it is accompanied by a mortgage pre-approval.

Search. Streeteasy is the best resource available for buyers in the New York City marketplace. Nearly 100% of all broker listings are posted there, together with a tremendous amount of useful pricing data. You can also set it up to send updates to your email inbox, which is incredibly useful for active and engaged buyers. For Brooklyn brownstones and townhouses, as well as apartment listings deeper in the outer boroughs, Trulia and Zillow should be consulted as well. Unless you are looking in fringe neighborhoods in which brokerage is primarily localized, there is really no need to look anywhere else.

Price Analysis. If you find a home you love, before making an offer, it is important to do a price analysis, so you can bid properly – not overpay or offer too little. Your broker should provide you with a detailed written analysis of the price of that particular unit relative to comparable apartments which have recently sold, are in contract and those that are currently on the market in the building and neighborhood, together with prevailing market trends (both macro and micro). Based on this assessment and any information that the seller's broker provides concerning the sale and other offers, you and your broker can decide together whether the apartment is well-priced and how to approach bidding.

Offers. When you decide to make a bid on an apartment, your broker will prepare and present your offer.

1. Offer with Financing. Your offer must be submitted with the REBNY financial statement and a pre-approval letter from your lender.

2. All-Cash Offer for a Condo. A prudent seller's broker will require proof of funds submitted with the offer (not all of them do), and REBNY financial statements are not typically required.

3. All-Cash Offer for a Co-op. Proof of funds may still be required, but the REBNY financial statement will also be required to determine whether your income and post-closing liquidity will pass muster with the co-op board.

4. Co-op Offers. Since co-op boards often look at attributes other than simply an offeror's finances, it is useful to submit some additional personal information with your offer, such as your educational background, job, family and interests, to give the seller a bit more comfort that you will be approved by the board.

Contingent v. Non-Contingent Offers. Historically, except in all-cash deals, most purchases have been contingent on the buyer's ability to obtain financing. In today's seller-friendly environment, however, sellers often ask that the buyer waive the mortgage contingency, thereby transferring to the buyer the risk of the buyer not being able to get a loan. In competitive bidding situations, it is unusual if the seller does not make this request. When you waive your mortgage contingency, you are agreeing that you will purchase the unit whether you can get a loan or not. If you do not have enough cash to purchase the unit without a loan, then your 10% deposit will be at risk if you ultimately cannot finance your purchase. If you encounter a competitive bidding situation for an apartment you really want, you should discuss waiving the mortgage contingency with your broker and mortgage professional to make your offer stand out a bit more. Mortgage professionals can often help get you reasonably comfortable with the likelihood that you will get your loan commitment, but you will never be able to get a full loan commitment without a signed contract and an appraisal (which is ordered after the contract is fully executed and submitted to the lender).

Negotiation/Highest-and-Best. Following submission of the offer, there may be a brief negotiation period where the parties go back and forth before settling on the purchase price and other terms of the deal. With inventory continuing to linger at historically low levels relative to demand, if an apartment is priced properly and has broad appeal (e.g., well-located, in good condition, and nothing too taste-specific or unusual about it), there is a good chance it will have multiple offers after just a couple weeks of open houses and showings. In this case, the seller's broker will likely announce a deadline by which the potential buyers must submit their highest and best offers. Once your broker submits your highest and best offer, the seller typically accepts what they deem to be the best one, which is not always the highest bid, but rather a combination of a good price and low risk of not being able to close.

Acceptance. In a highest-and-best situation, you will typically hear whether your offer has been accepted within a day or two of making it. Once an offer is accepted, the seller's broker will send out a deal sheet to both parties and their attorneys. This is essentially a list of the material terms of the deal and includes the contact information of everybody involved, purchase price, whether it is a contingent or non-contingent deal, the amount being financed, and the targeted closing date. It is important to note that accepted offers are not legally binding on the parties, and before a contract is signed, either party can back out of the transaction without penalty (which actually happens with greater frequency than you would think). Accordingly, a seller's broker will likely continue showing an apartment to potential buyers and fielding offers until a contract is signed.

Attorney Review/Due Diligence. Once the deal sheet is circulated to the parties, the seller's attorney will send a draft contract to your attorney. The contract will be based on a standard form that is used in virtually every residential deal. There is not too much to negotiate unless there are relatively unique terms to your deal. The contract riders are where all the deal-specific provisions will be. Your attorney will submit a "purchaser's rider" to the seller's attorney, which includes certain buyer protections not included in the standard form, such as additional seller representations. At the same time as the contract is being negotiated, your attorney will perform due diligence on the building and the unit you will be purchasing. This includes reading the board minutes of the co-op and condo to determine whether the unit has been the subject of anything noteworthy over the past few years, reviewing the building's financial statements and governing documents and submitting a detailed questionnaire to the building's managing agent. Buyers can also have a home inspection performed at this time.

Contract Signing. Once your attorney completes due diligence and negotiates the contract, it will be time to sign the contract. At signing, your attorney will deliver your signed contract to the seller's attorney together with a payment of 10% of the purchase price, which is deposited into escrow. The seller's attorney typically holds the escrow account. Following receipt of your signed contract and deposit, the seller will sign the contract, a fully executed copy will be circulated to the parties, and the deal will be legally binding pursuant to the terms of the contract.

Appraisal/Loan Commitment. If you are financing, promptly after signing, you will submit the signed contract to your mortgage professional, together with all other necessary paperwork, to continue the process of obtaining your loan commitment. Once this occurs, your lender will order an appraisal. The appraisal is very important because the amount of your loan will be based on the unit's appraised value, rather than the contract price. Thus, if the unit appraises for less than the contract price, you will have to pay more out-of-pocket at closing than you previously anticipated to account for the shortfall in loan proceeds. This is of particular concern with competitive bidding situations, as buyers sometimes end up bidding an amount in excess of the market value of the unit in order to win the bidding. Your broker should provide sensible guidance and advice about the risks, ramifications and likelihood of a low appraisal. After the appraisal is received, your bank should be able to complete its underwriting and issue the loan commitment.

Board Application Package. Promptly after contract signing, it is advisable that you begin assembling all materials necessary to prepare your board application package. Both condos and co-ops have extensive board applications. Condos are often less extensive because the approval process is significantly less rigorous, but many still require submission of proof of finances and employment. The major difference between the board approval process for condos and co-ops is the condo board's right of first refusal. The only recourse that a condo board has to "reject" an applicant is to purchase the unit at the purchase price you agreed to with the seller. As you can imagine, with prices where they are, this very rarely happens. Co-op boards, however, have no such restrictions and, for the most part, can freely reject buyers for any reason or no reason at all without consequence or explanation. Accordingly, if you buy a co-op, your application package

must be timely submitted, professional and complete. You should expect to provide, at a minimum, several personal and business letters of reference for you and whomever else will be involved in the purchase and/or living with you in the unit, a letter of good standing from your current landlord, statements dating back 3-6 months for all bank and investment accounts you have, past tax returns and income and employment verification letters. Generally speaking, board applications must be submitted for review within a few business days after your loan commitment is received. If you are all cash, board applications are typically required to be submitted within 10 business days of contract signing.

Board Approval. With a condo, the board generally has a month or so (20 business days) to issue a waiver of its right of first refusal, but it is often done much more quickly. This waiver is a condo board's de facto approval of your application. There is typically no interview process. With a co-op, if your application passes muster with the co-op board, you will then be required to sit for an interview with one or more members of the board before formal approval is issued. Co-op board interviews are generally an unreasonable cause for concern, and in many buildings are more of a formality and a meet-your-new-neighbors gathering than anything else, but some boards will ask tough questions.

Walk-through. Following your approval, your attorney will schedule the closing. Immediately prior to closing (typically the morning of or the day before), you and your broker will do a walk-through of the unit. In the standard purchase agreement, the buyer agrees to purchase an apartment in the condition in which it exists on the date of the contract, so the walk-through is your opportunity to confirm that nothing has changed in a material way since you signed. Among other things, you make sure all appliances are working properly, test the faucets to make sure hot and cold water flow properly, flush toilets, test each appliance, make sure the heat and A/C work in each room, open and close each window and look around them to make sure there is no sign of leaks or mold, look for signs of water stains on the floor or cracks in the ceiling, test each outlet to make sure there is electricity, etc.

Closing. The closing is a relatively uneventful affair (except for the fact that you may be going into serious debt and parting with a significant chunk of money). You will be sitting at a table in a conference room next to your attorney and will be asked to sign what will seem like 100 documents. If you have a good attorney, he or she will explain each document to you before you sign it. Once all documents are signed and the bank has approved the funding of your loan, the deal will close. Everybody will shake hands and smile and you will get several sets of keys to the apartment and, if you work with Digs Realty, a big rebate check.