

## Being Grilled

Preparing for the Interview Process

By Raanan Geberer

Of all the stages of co-op life, the initial application and approval process, especially the interview, is certainly the most harrowing. Many people are in fear that just one wrong word will mean the difference between acceptance and rejection. The more “exclusive” and upscale the building, the more difficult this process seems to be.

There are many “pluses” to co-op living. Indeed, in this day and age, when fewer and fewer people belong to fraternal orders, churches, sports leagues and so on, and families are scattered all over the country, being a co-op shareholder may provide a person with the sense of community he or she doesn’t find elsewhere. Also, a co-op can be a more permanent type of community than a condo development—especially in cases where investors buy blocks of condo units, then rent them out to tenants.

Still, the application process proves to be difficult. In particular, many non-New Yorkers who are trying to move to the city and who are unfamiliar with New York-style co-ops are very much intimidated by the entire process. And everyone’s heard the horror stories—co-ops that insist that applications be printed out in a particular font and type sizes or that insist on weighing applicants’ dogs to make sure they’re not ‘over the limit.’

Condo boards don’t have the same amount of authority over buildings that co-op boards do, but some New York City condos are making their application more like that of co-ops in an effort to exert more control over the process.

Thankfully, many brokers and others have years of experience dealing with co-op and condo boards and committees, and are willing to help applicants navigate the process.

### Condos vs. Co-ops



Virtually everyone is in agreement that by and large, the co-op approval process is longer and more intensive than the condo approval process. To begin with, there are legal differences. Readers surely know that in a co-op, you're buying shares in a corporation, ownership of which entitles you to occupy your unit. In a condo, you're buying real estate—just as if you had purchased a single-family home. But the differences go deeper than that.

Co-ops have the right to grant or withhold consent to any proposed sale for any reason except in cases where discrimination can be proved. By contrast, says attorney Phyllis Weisberg of the law firm of Montgomery McCracken Walker & Rhoads LLP in Manhattan, the condo board has only a right of first refusal. This means that “Once the application is complete and the board has received all the information it has requested, the board has a limited period of time to match the deal and purchase the unit itself” if for some reason they don't wish the unit to go to a prospective buyer. Given the cost of such a move, most experts agree that this is very rare.

Both co-ops and condos require information about the purchasers, their finances, employment, credit history and so forth. In fact, attorney **Leonard Ritz**, of counsel to **Adam Leitman Bailey P.C.**, a Manhattan law firm, warns his clients to expect a “financial colonoscopy.”

Still, condos normally don't require face-to-face interviews. And co-ops, says broker Carol E. Levy of Carol E. Levy Real Estate located on the Upper West Side, typically have longer applications, more documentation and more reference letters. “Where a co-op might ask for four personal and four business reference letters, a condo might ask for two and two.”

## Communications

How can boards communicate their expectations and requirements to brokers who handle sales in their building? Diana Diaz, director of closing for Manhattan-based Argo Real Estate, says that “Boards should communicate their expectations and requirements to brokers through the board application package. This should be maintained on the managing agent's website, making it readily available to all brokers, and be updated periodically to include any changes in substances or fees.”

Some boards are very specific about what they want, but others are more vague on certain details—for example, their required income-to-debt ratio. That's where an expert broker, one who knows how to talk to the managing agent, comes in handy.

“Most buildings rely on financial information to guide them through the board process,” says Richard Grossman, executive vice president and managing director at Manhattan's Halstead Property.

“Experienced brokers should be able to discern the expectation based on past sales and experience in the building. Boards change, and what one board found acceptable, another new board may not.”

For brokers to educate themselves about a building's approval process and explain it to clients, they should talk to the managing agent, as we've mentioned. They also should read the house rules and bylaws of the buildings. Finally, they should know the difference between what's required in one building and what's required in another.

“A Park Avenue building that does not allow financing will have a very different set of criteria and purchaser in mind than a Park Slope cooperative that allows 80 percent financing,” Grossman says.

And as far as those nerve-wracking co-op interviews are concerned, Levy notes, the broker needs to explain to the client that this is something all applicants have to go through. “If they're not comfortable with providing that kind of information,” she says, “they probably shouldn't be buying in a co-op. You have to explain to people that they have to be accepting of how intrusive it is, and they shouldn't take it personally.”

## More Stringent

The co-op approval process, like everything, is a product of outside economic conditions. With this in mind, we should examine how the recession of the past five years has changed the experience.

Many professionals agree with **Ritz** that, “Generally, boards have become more stringent rather than less, as they are more concerned about the financial wherewithal of prospective purchasers.” But this is far from universal. Grossman says that “In a 'weaker' market, boards may look to work with a buyer (asking for maintenance in escrow or a guarantor, for instance) who does not quite meet their standard.

Alternatively, in a stronger market, they may feel that if they reject a candidate the seller can find a new buyer quickly and for similar or better terms.”

Federal loan requirements have also become stricter, both for buyers and for the property into which they are buying, says Weisberg. “Even if the applicant has impeccable financials, if the co-op or condo does not meet the Fannie Mae requirements—e.g., its reserve fund is inadequate, the bylaws do not contain the language that Fannie Mae requires, or the building is involved in litigation not covered by insurance—the

loan may be disapproved.” Prospective purchasers need to review these matters with their attorneys and/or mortgage brokers.

The stricter the co-op’s requirements for new buyers, the more intimidating it may be. Yet, there may be some people who like the idea that they’re buying into an “exclusive club” that not everyone can join. Some people say that co-ops, by their very nature, are such a club and some clubs are more exclusive than others.

“The benefits,” according to **Ritz**, “whether practically knowing that there will be more control over who their future neighbors will be, or psychological, like bragging rights (‘they let me in but they turned down Richard Nixon,’ to use the famous example of River House), outweigh the downside.”

Certainly, not every co-op is of the Upper East Side exclusive type, and not every building has the aforementioned type of “snob appeal.” But addressing the broader issue of co-op applications, Weisberg, who has represented boards, feels that buyers should appreciate the thoroughness and rigorousness of the application process—because the board is protecting the financial stability of the entire building.

## Condos More “Co-op-Like”

As we’ve mentioned, some condos are making their application processes more “co-op-like,” i.e., more rigorous. “Co-op boards are still far ahead in terms of stringency and requirements, but condos are now closer than I’ve seen in more than two decades,” says Diaz.

“We are seeing purchasers of condos who are buying as LLCs or whose income and assets are not in the United States begin asked to put six months’ worth of common charges in escrow with the managing agent,” says Grossman.

One of the reasons condos have started to tighten up on their application requirements is the desire to protect themselves financially. “In a co-op,” says Weisberg, “the co-op’s lien for unpaid maintenance comes ahead of the bank. For that reason, even if a shareholder defaults, the co-op is usually protected and will be made whole.

“On the other hand, a condo, the lien comes behind the bank and the real estate taxes on a unit. A bank foreclosure, which unfortunately can take years to process from start to finish, means that the condo is

usually not receiving its common charges in the interim, and, if there is no equity left after a foreclosure sale, the condo's lien will be wiped out."

The trend toward more stringent condo application processes, says **Ritz**, started after 9/11, when condos started becoming concerned about how easily anyone with enough money could buy an apartment. It picked up steam, of course, after the recent financial crisis.

## Horror Stories

Anyone who is involved with co-op or condo sales on a day-to-day basis has some stories about a particularly eccentric or demanding application process. Levy gives two anecdotes:

"For a condo, the most difficult and intense board package I've ever had to put together was for a building on Fifth Avenue that was being purchased by foreign clients. Part of the requirements were that all of the financial documents and statements had to be 'consularized,' or stamped by the U.S. Consul General in their city [Singapore]. He was rarely there. It took about three months for the consul general to consularize each document."

In a co-op, she said, the problem "had to do with a client buying a unit in a Central Park West building with a very difficult board. Each board package was almost 1,000 pages, and for each package, we had to create 14 copies—one each for the 12 members of the board, plus one for the board's attorney and accountant."

Ritz gave an example of his own—in one building, a board wanted to "interview" the purchaser's pet (a macaw) and to get letters of reference from the purchaser's current managing agent and neighbors attesting to the bird's noise-making habits, or lack of them.

All in all, says Diaz, "Co-ops in every price range and location require some pretty over-the-top information, and the only way to successfully navigate the application process is to provide what is being asked."

In general, it's a good idea to find out the requirements of the building, get yourself an experienced broker who knows how to put together a good application package, not to ask too many questions that could be perceived as argumentative or hostile, and above all, to cross your "t's" and dot your "i's." And remember—you're not the only one who has to go through this!

