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NEW YORK REAL ESTATE LAWYERS

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COOPERATIVES	CONDOMINIUMS
GENERAL INFORMATION	
A cooperative building is owned by a corporation comprised of tenant shareholders or unit owners. Each tenant shareholder owns a number of shares in the corporation. The number of shares depends on the unique characteristics of the apartment, such as size, view and location. The tenant shareholder's right to occupy the apartment as his or her home is granted by a proprietary lease to that apartment which is transferred, at closing, with the stock certificate. In New York City, co-ops are the norm. Approximately 85% of the apartments available for purchase are in cooperative buildings, and 15% are in condominiums. Since there is a larger inventory to choose from, co-op prices are, in general, less expensive.	A condominium or condo is defined as "real property." The owner obtains a deed and a distinct tax lot number. Owners pay their own property taxes and a monthly common charge to the condominium. Common charges do not include (i) real estate taxes, as taxes are paid by each unit owner or (ii) building mortgage interest, as condos generally do not have a mortgage. In New York City, condos are the exception. Approximately 15% of the apartments available for purchase are in condominium buildings, and 85% are in cooperative buildings. Since there is a smaller inventory, condo prices are, in general, more expensive and have substantially higher closing costs.
UNIT & BUILDING OWNERSHIP	
Co-op owners do not own real estate. Rather, each unit owner owns shares in a corporation. The corporation, in turn, owns the building, including the apartment and usually, the land.	A condo is defined as "real property." The owner obtains a deed and a distinct tax lot number. The unit owner owns the real estate the unit occupies and an undivided interest in the building's common areas, such as the lobby and hallways.
BOARD MANAGEMENT	
Co-ops are governed by a Board of Directors which follows the by-laws described in the offering plan. The by-laws establish policies, procedures and restrictions for issues such as selling, subletting and making alterations.	Condos are governed by a Board of Managers which follows the by-laws described in the offering plan. Condo by-laws are comparatively much less burdensome on unit owners.
MONTHLY PAYMENTS & TAX DEDUCTIBILITY	
A co-op unit owner pays monthly maintenance which includes the unit's proportionate share of (i) general building maintenance (i.e. staff salaries, fuel, water, etc.), (ii) corporation's real estate taxes and (iii) mortgage interest on the building's mortgage. Shareholders can deduct the portion of maintenance constituting (i) the building's real estate taxes and (ii) the interest on the building's mortgage.	A condo unit owner pays monthly common charges which includes the unit's proportionate share of cost of upkeep of the building and common areas. As common charges do not include real estate taxes, as they are paid directly by each unit owner, or building mortgage interest, as there is no underlying condominium building loan, common charges do not offer any tax deduction. Real estate taxes, which are separately assessed for each

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Mortgage interest relating to purchaser's individual unit loan is deductible.	unit, are tax deductible. Mortgage interest relating to purchaser's individual unit loan is deductible.
CLOSING COSTS	
The closing costs of a co-op are far less than a condominium. See Closing Cost Link	As real property, the closing costs associated with obtaining a condominium far exceed the cost of a co-op. See Closing Cost
PURCHASE BY INVESTORS & NON-US RESIDENTS	
Co-op boards are not likely to approve a purchaser without domestic assets or an investor seeking to sublet the unit.	Condos are ideal for investors intending to sublet and Non-US Residents or for those with their assets outside of the United States.
FINANCING BUILDING IMPROVEMENTS	
If a co-op needs a capital improvement, it has the option of tapping a reserve fund, levying an assessment on shareholders or obtaining a mortgage as the cooperative corporation owns the building..	Building mortgages are not generally available to condos because the condo does not own the building. Condominiums may fund a capital improvement by either utilizing a reserve fund, if available, or levying an assessment on the owners to finance capital improvements.
FLIP TAX	
Many co-ops leve a transfer or "flip" tax on a seller. This may be based on either the number of shares owned, the net/gross profit on the sale or the sales price.	Flip taxes are seldom associated with condominium sales.
SUBLET POLICY (H)	
Each co-op corporation has its' own unique sublet policy and accompanying restrictions, which should be examined before signing a contract of sale. Co-op buildings with a higher percentage of owner occupants pay a lower rate of interest on the underling building loan. It is not uncommon for co-ops to prohibit any subletting.	Condominiums are fairly liberal in their subletting policies. Most limit their restrictions to preventing short term sublets of less than a twelve month terms.

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FINANCING	
The maximum amount of financing that may be borrowed is determined by each cooperative corporation. Prospective purchasers should not anticipate financing more than 75 to 80% of the sales price. More restrictive co-op buildings will limit financing even further.	Condominiums are more liberal in their financing restrictions than a co-operative. Generally, a buyer can finance up to 100% of the sales price if they can find a lender willing to offer such terms.
BOARD APPROVAL OF PROSPECTIVE PURCHASER	
Except for the sale of sponsor owned units, unit owners/shareholders have the right to “approve” or “disapprove” of potential purchasers. Representatives, elected by the unit owners/shareholders, interview each prospective owner safeguarding the other owners business. Intrusive application	The approval process for a condominium is far less taxing, and the likelihood of rejection is minimal. Condominiums corporations can refuse to waive their right of first refusal, however by doing so the condominium corporation then has to purchase the unit for the contract offering price.