

Homework for Condo Buyers

By JIM RENDON

In a city like New York with an aging housing stock — much of it suffering from deferred maintenance — brand-new condominiums have an obvious appeal. Luxury amenities like pools, screening rooms, children’s play areas and high-end finishes can look pretty good when compared with a musty prewar building or a featureless postwar high-rise.

And, curb appeal aside, new apartments dominate the sales market in popular or gentrifying neighborhoods like Williamsburg, Harlem and Downtown Brooklyn, which were once either dominated by rental units or had little housing.

But new condos have some drawbacks. Selling prices may be higher than those for units in comparable older buildings. Closing costs can be higher, too, and loans often harder to obtain.

All new buildings must have an offering plan that is approved by the state attorney general’s office. The plan will lay out important details about the building and the apartment. It tells you which appliances and finishes to expect, the size of the apartment (and how that measurement was calculated), who will manage the building, what the monthly fee will be — everything that you need to know. It is a dense, complex legal document that may be daunting to a layman.

“Having an attorney familiar with new construction to go over the offering plan is key,” said Neila Deen, the director of sales and business development at RealDirect, a brokerage firm in Manhattan that sells new and older apartments.

Involving a lawyer early in the process can help identify and resolve potentially costly issues, like whether the estimated common charge is accurate or whether the condo board or the sponsor is required to buy the superintendent’s apartment. “The offering plan is full of surprises that have to do with real costs,” said Michael Moshan, a partner at Gold Scollar Moshan who specializes in new construction. “Any good attorney can save a client thousands of dollars” by identifying taxes and fees that buyers can negotiate down or away.

Many new buildings benefit from tax abatements. Owners in these buildings avoid paying property tax for anywhere from 10 to 25 years in some instances. This can be a real selling point, as it keeps monthly costs far below those at similar but older buildings. A lawyer can

help determine when the clock started ticking on an abatement and what the tax bill will be when it runs out.

Closing costs are much higher on new construction, said David Maundrell, the president and founder of Aptsandlofts.com, a large new-development marketing firm in New York. “People should expect that, so they are not surprised by it,” he said. In most real estate transactions, the seller pays the transfer tax and his own lawyer’s fee. However, with a new unit, the buyer pays the tax — in New York, about 2 percent of the purchase price — and the seller’s lawyer fees, which can cost as much as \$2,500.

Ms. Deen says buyers should try to get the sponsor to pay those taxes and fees as part of the negotiating process. But with buildings in great demand, that may be an uphill battle.

Before anyone can close on an apartment in a new building, the City Buildings Department must grant it a temporary certificate of occupancy. The approval process can drag on for months, delaying the closing. Buyers can check the Buildings Department Web site to check the status of an occupancy certificate.

Financing a new condo is not simple either. Buyers may get approved for a loan, but that does not mean that the bank will approve the building, said Ross H. Weinstein, a managing partner at Exclusive Capital Consultants. New buildings have to meet many different criteria set by Fannie Mae and the Federal Housing Administration as well as by the buyer’s bank.

If a building is in a flood zone, for example, the F.H.A. will not qualify it. Fannie Mae and the housing authority also require a certain percentage of apartments to be in contract (meaning that a buyer has signed a contract and put down a deposit). A building with a large number of investor-owned apartments or renters can be disqualified. Also, just because a building is F.H.A.- and Fannie-approved does not mean that a bank will approve it. Individual banks have their own separate requirements.

This is why many new buildings have preferred lenders and mortgage brokers, Mr. Maundrell said. For example, Exclusive Capital said it was currently the preferred broker on 80 projects, meaning that it gets each building approved with several different banks so that the building will never be the stumbling block. While some buyers may balk at using a broker who is working with the developer, Mr. Moshan, the lawyer, said it was a good idea to try it, since getting financing can be a struggle.

In addition, buyers may have trouble getting an appraisal that matches their purchase price. Since new construction often sells for more than resales, it may be hard to find nearby

comparables, or comps — a brokers' term for similar apartments that have sold — particularly if you are among the first to buy in that building. If the appraisal is low, Mr. Weinstein said, you can either put more money down or try a different bank.

Though new buildings may look great, those high-end finishes can hide problems. “Whenever you buy new construction, you should have your apartment inspected,” said Debra J. Guzov, a lawyer with Guzov Ofsink, a firm whose practice includes construction-defect disputes. A good inspector can help you avoid future problems.

Joseph Pasaturo, the founder of AVT Engineering and the chairman of the New York State Home Inspection Council, said that in this market, developers sometimes have to sell units for less than they had planned, so corners may be cut to make up the difference. For example, he said, in many of the buildings he inspects, builders have left out return vents in bedrooms. That means that a central heater or air-conditioner will not work well when the doors are closed because the air in the room cannot escape to make room for the new hotter or cooler air that your system is trying to pump in.

In other instances, he has seen developers save money by installing low-quality windows, and has found problems with wood floors, tile and even exterior stucco. “The building may meet the building code,” Mr. Pasaturo said, “but the shortcuts the developer took can affect your overall quality of life.”

If significant problems are found, Mr. Moshan said, they can be addressed in the contract.

Lawyers says smaller issues, like paint drips, gaps in counters or broken screens, should be taken up with the developer on a “punch list” — a list of things the developer needs to fix in the apartment in the short term. But larger issues, if not addressed before a sale, can take years to resolve.