

# Real Estate

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## Title Insurance For Co-op Buyers

By JAY ROMANO

**H**OUSE or condominium buyers almost always purchase title insurance to protect themselves and their lenders in the event of a claim that impairs their title to the property. But buyers of co-ops generally don't get title insurance, even when they take out share loans (the equivalent of mortgages).

That's because buying a co-op apartment isn't buying real estate — it's buying shares of stock in a co-op corporation. But title insurance for co-op apartments is available, as what is called a co-op leasehold insurance policy. And, said Eric Gonchar, a Manhattan co-op lawyer, "co-op leasehold insurance is something every co-op purchaser should at least be thinking about." In fact, Mr. Gonchar said, "there are some situations where leasehold insurance is virtually a must."

The lawyer for a co-op buyer, he said, usually hires a company to conduct what is known as a lien search to determine whether there are any open liens filed against the seller, against the seller's shares in the co-op corporation, against the seller's proprietary lease or against the co-op corporation itself.

If such liens exist, and they are not satisfied before the closing, Mr. Gonchar said, the buyer may not be able to sell the apartment in the future without satisfying the liens.

In most cases, he said, the lien search accurately discloses all open liens, and the buyer's lawyer can ensure that those liens are satisfied before the buyer goes through with the deal. But sometimes, he said, a lien search will miss an open lien. And it is in such cases, Mr. Gonchar said, that co-op leasehold insurance comes in handy. "Typically, the maximum liability of the lien search company is \$50,000," he said. "That means that if the searcher misses a \$100,000 lien, the liability of the company will be at most \$50,000, and the buyer may not be able to sell the apartment unless

he satisfies the remainder of the lien."

It is also possible — though not common — for there to be a question about whether a co-op buyer received clear title to the co-op apartment. But there are certain situations, Mr. Gonchar said, in which that possibility becomes more likely.

"Whenever you are buying an apartment that has been the subject of foreclosure, or are buying an apartment from an estate, the potential for title problems increases," he said. For example, Mr. Gonchar said, if a foreclosure was not handled properly, or if all potential heirs or beneficiaries to an estate were not identified, that could significantly affect the buyer's ownership interest in the apartment.

In those cases, he said, a claim against the ownership interest could result in the buyer actually losing title to the apartment.

Co-op leasehold insurance, however, will protect against such problems — while also providing coverage for liens missed by the lien search — up to the amount of the purchase price. In addition, Mr. Gonchar said, the insurance company will provide lawyers to defend the buyer if a claim is made against his ownership interest.

Michael Berey, senior underwriting counsel for First American Title Insurance Company of New York, said that the one-time premium for a \$1 million co-op leasehold policy is \$3,155, which is about 70 percent of what a standard title insurance policy on a home or condominium would be. The policies, he said, are available from any title insurance company doing business in New York.

For those more concerned about missed liens than claims against ownership interest, First American offers a lower-priced policy that provides insurance to cover liens against the seller that may have been missed in the lien search. The company's Eagle 9 UCC insurance policy for buyers — which provides coverage for up to the purchase price — costs \$879 for a \$1 million purchase, including the search fee.



Tom Bloom