

Real Estate

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Buying and Selling in Bedbug City

By TERI KARUSH ROGERS

THE elegant two-bedroom co-op in an Upper East Side prewar building had drifted on the market for nine months by the time the first-time buyers laid eyes on it this spring. They fell hard for its original detail, convenient location and friendly price.

The sellers, a family with a third child on the way and a desperate eye cocked toward the suburbs, were eager to move. Two days later, a deal was struck for \$50,000 below the \$670,000 asking price.

Then came the "due diligence."

Scattered among notations about routine matters in the co-op's records lay the exploded fragments of a bombshell.

"The minutes referenced multiple attempts to exterminate bedbugs in the building," said Steven Ebert, the Manhattan real estate lawyer who represented the buyers.

Complaints about bedbugs have risen sharply over the last few years in New York, according to city officials, and no neighborhood

in the city has been spared. While the pests do not pose a dangerous health risk, they inflict considerable psychological distress on their unwilling hosts. Moreover, the uninvited guests can be excruciatingly difficult and costly to evict.

According to the law, sellers and their brokers must acknowledge a problem if asked. But conflicts of interest aside, neither can be expected to know whether an infestation exists elsewhere in the building.

The problem is so pervasive that some lawyers have begun incorporating sellers' representations about bedbugs into sales contracts, adding to now-standard ones about leaks, mold and noise issues. And buyers are having to determine if the pests are a deal-breaker or just one more headache on the road to a new home.

When the buyers of the prewar apartment on the Upper East Side found out about the infestation, they poured out their story

online at StreetEasy.com, wondering whether the pests unsealed the deal.

Although bedbugs hadn't been detected in the seller's apartment, a bedbug-sniffing dog — currently in vogue as a helpful if not foolproof detection device — had spotted potential infestations in a third of the co-op's 90-odd units, though the insects had been seen in only two. A buildingwide extermination effort had been mounted just a few months earlier — but at least 10 owners, including the sellers, had declined to have their homes treated.

The couple's online circle did not like the sound of this. Many members said the personal suffering and expense of an infestation were simply not worth the risk. One recounted having spent \$10,000 on hotel bills and discarded furniture.

Reluctantly, the buyers walked away from the apartment and the \$1,000 they had paid their lawyer thus far.

"Before we found out all the details, we thought maybe if it had happened two years ago and had been taken care of, and there had been no complaints ever since, we might feel comfortable," said the wife.

"The broker said, 'This is New York City — you have all sorts of things like cockroaches and rats,'" she explained, asking that her name be withheld because she was worried about being labeled as a troublemaker by another co-op board. "But it's very different to have a cockroach than something that sucks your blood and is in your bed. I would rather have rats."

An infestation can make mincemeat of a done deal. No ZIP code is spared. If the outbreak is severe, it may be best to head for the hills.



A growing number of apartment shoppers appear to share her view, according to the real estate lawyers who represent them. Real estate agents — perhaps hesitant to provide people with another excuse not to buy — became unusually press-shy when asked about the subject.

"It's like the dreaded mold that was killing values for a while," said Steven Sladkus, a real estate lawyer whose firm, Wolf Haldenstein Adler Freeman & Herz, represents 250 co-op and condo boards. "People don't want to buy into a building if they find out there are bedbugs."

The bedbug epidemic has smacked around New York City for the past five years or so, a seemingly unstoppable scourge flourishing in the absence of a coordinated city effort to control it. The City Council created a bedbug advisory board in March, but has not yet announced its members. Complaints to the 311 hot line shot up by 19 percent for the fiscal year that ended in June, on top of a 33 percent increase the year before, according to the New York City Department of Housing Preservation and Development.

These figures probably underreport the problem: Co-op and condo owners,

'I absolutely wouldn't want it out that bedbugs are in my building.'

who control about a third of the city's housing stock, may not always call the city for help because, unlike renters, they can address building infestations themselves. Nor are renters with less-than-legitimate claims on a lease or citizenship phoning in their distress.

"Most residential buildings in New York City have had bedbugs," said Aaron Shmulewitz, a real estate lawyer at Belkin Burden Wenig & Goldman who represents 300 Manhattan co-op and condo boards. (Among his most frequently asked questions: Who must pay for extermination?)

Eva Talei, a real estate lawyer at Strock & Strock & Lavan, said that in the last six months, her firm's real estate group had received at least two calls a week from boards about infestations.

"The co-op and condo community is

just becoming aware that they are victims of this," Ms. Talei said, noting that "for a lot of years, people thought this was confined to rentals or housing projects or fleabag hotels."

Meanwhile, the need to inquire into a co-op or condo's bedbug status is only just beginning to seep into the consciousness of buyers and their lawyers.

"I have yet to hear of a buyer going into the apartment for the preclosing walk-through and picking up the bedspreads and looking at the mattresses," Mr. Shmulewitz said. "If they do, you're going to have lots of deals not closing."

It's a start that the law requires co-op and condo sellers to disclose a problem if asked, but the representations are hardly foolproof: Sellers can be unaware of problems in their own apart-

ments (not everyone reacts to bedbug bites with itchy red welts) and ignorant of hungry armies massing behind their neighbors' walls.

So questions are also being lobbed at managing agents, and the response — be it passing the buck or ignoring the inquiry altogether — carefully observed.

Unfortunately for buyers, minutes of board meetings are not the reliable gauge they might

seem.

"They're often incomplete," Mr. Ebert said. "Some boards are aware that minutes are a public document that can affect resale value, and they sanitize the minutes. If there's only good news in there, then it's too good to be true."

It's a matter of self-preservation, Mr. Sladkus said. "From my perspective as

a board member, I absolutely wouldn't want it out there that bedbugs are in my building."

Even when the bugs do show up in the minutes, the references can be vague and details elusive.

"We tried to find out which units had the bedbugs, but the co-op would not tell us," said another would-be buyer who also asked to remain anonymous to avoid trouble with a future board. "We mainly wanted to make sure the unit we wanted to purchase was not on the same floor."

The buyer and her husband agonized over whether to walk away from a postwar Greenwich Village one-bedroom listed for \$750,000 this summer. After their lawyer learned through the co-op's minutes that two units in the building had bedbugs, the couple — both infectious-disease specialists who understood that bedbugs, though disgusting, don't pose much of a health risk — "freaked out."

The buyers withdrew their offer but continued to press for information through their lawyer, who spoke to the seller's lawyer and the managing agent.

"It was clear the managing agent didn't want us to know which units or the extent of the situation because of the stigma associated with the problem," the woman explained.

Nevertheless, when they were assured that the problem had been addressed a year earlier, they put in a new offer. But they ultimately withdrew after an inspection revealed the presence of asbestos and the sellers would not agree to a \$20,000 price reduction to cover abatement.

"My advice to prospective buyers is to make sure you hire a thorough real estate attorney to read the board minutes, and get an inspection, despite what any broker tells you," she said, alluding to a suspicion that brokers don't always come clean about bedbugs.

Like the Greenwich Village couple, some buyers are willing to overlook a bedbug issue if they are given assurances that the problem is safely in the past — or will be by the time they move in.

Last summer, Anne Stone and her husband learned that an estate-condition apartment they wanted to buy in a Upper West Side co-op near Columbia University had been afflicted with bedbugs.

A friend who had once lived across

the hall from the unit told Ms. Stone that the problem had been detected a year and a half earlier, but seemed to have been dealt with then.

The seller's broker, Klara Madlin of Klara Madlin Real Estate, explained that the owner's children had had the apartment exterminated.

"At the time, I didn't realize the bugs could live without sucking on anyone for one and a half years," said Ms. Stone, who ultimately agreed to pay \$965,000 for the apartment de-

spite learning that it had been the locus of an infestation. "The owner had died six months earlier and we planned to gut-renovate before we moved in. We decided forewarned was forearmed, and we asked the sellers to hold some money in escrow for a bedbug inspection, which we haven't done yet."

As things have turned out, the renovation began only this spring and won't be completed until October, nearly two years after the previous owner's death. Although the new owner plans to have the apartment inspected before moving in, she is not very concerned.

Most buyers view bugs as a reason to walk away rather than an opportunity to ask for a lower price.

"In a market where there's a lot more inventory, issues with vermin and infestation and odor become deal killers," said Jonathan Miller of the Manhattan appraisal firm Miller Samuel.

But there are those who swallow hard and go forward.

Eric Gonchar, a Manhattan real estate lawyer, worked this spring with a pair of first-time buyers who decided to buy a bug-ridden \$1 million postwar co-op on the Upper East Side.

The problem surfaced when the sellers would not say in the contract that they were unaware of any bedbug issues. "The clients were a little freaked out," Mr. Gonchar said, "but the managing agent said there was no building-wide problem. So the choice was either to lose the deal or get it treated, and they didn't want to lose the apartment."

The sellers promised to do a thorough cleaning and extermination before the closing, and to provide the corroborating paperwork.

"We weren't going to just rely on the seller to tell us — we sent in our own exterminator and made the seller treat where our exterminator found the bugs," Mr. Gonchar said. "He found it in some of the cracks of the walls, in the floorboards and some of the wall-to-wall carpeting."

His clients have been living in the apartment for more than two months, so far without problems.