

# Contracts made easy

## The most important clauses to examine — before you sign

By ANNE BECKER

**S**o you finally nabbed an apartment in today's super-tight market — unfortunately, it's not time to bust out the bubbly just yet.

Having your offer accepted doesn't mean you're anywhere near out of the woods. You've still got that contract to nail down — and if you don't nail it right, you can end up... well... screwed.

"I didn't sleep well at all for those few days the contract was out there waiting to be signed," says Jason Jahn, 23, who bought a Midtown West condo earlier this month.

"When you've finally gotten off the high of getting an accepted offer, you feel like you've rounded this great corner, but going to contract is definitely the most unnerving."

Contracts are full of minor clauses and sticking points, and they're all the more complicated in Manhattan, but there are some key things you can look to include.

### THE BIG THREE

Before you even go to contract, the buyer and seller must agree on a purchase price, a closing date and financing for the deal, says Eric Gonchar, a real estate attorney at Kane Kessler, P.C. who teaches an entire-class-about-contract terms to new real estate recruits.

"It seems stupid, obvious, but if the seller and purchaser don't agree on those three things, you won't even go to contract," Gonchar says. Pick a reasonable closing date and make sure the

seller agrees to vacate the house by closing time.

"Everybody wants to close a deal quickly, but when you get unreasonable expectations and parties aren't ready, everyone ends up angry and upset," says Keith Schuman, a partner in real estate law firm Schuman and Associates.

In today's hot market, prime among the contractor's key clauses right now is financing. Contracts generally contain some provision for the buyer to back out if he doesn't get a mortgage. But since the New York market so aggressively favors sellers right now, it's common for buyers to be asked to agree to a non-contingency clause — meaning you're obligated to buy the apartment whether you've got the money or not.

"You're signing it saying 'all my ducks are in a row,' so you're in a much less secure position," says Jahn, who was surprised to find out that he'd be held to a non-contingency clause.

Also, make sure that the amount of your down payment (almost always 10 percent of the purchase

price) is clearly spelled out in the contract.

The seller's attorney usually deposits the money into a trust account until closing time, but make sure you know exactly how long the money will be held for. Additionally, be sure the contract spells out all the closing costs, fees and adjustments, along with exactly what's included in your purchase of the property.

"This always becomes a major headache," Gonchar says. "It's amazing how many closings I go to where the buyer thinks the curtains are included, and the seller removes them because they're not in the contract."

*"It's amazing how many closings I go to where the buyer thinks the curtains are included"* — attorney Eric Gonchar

### HOT STOVE LEAGUE

Most apartments are sold in "as is" condition, but the appliances must be in working condition — important to note in the contract.

"Buying an apartment isn't like buying a new car," Schuman said. "You're buying it subject to scratches and dings and imperfections, but the appliances

have to work."

Usually the day before the closing, the buyer, the seller and their broker will do a final inspection — known as a walk-through — to make sure that the apartments in the same condition they saw when they made the offer. If it isn't, the seller is obligated to give the buyer a credit towards the price of repairs.

There are also all sorts of obscure provisions in contracts, such as waiving the right to inspect for lead-paint hazards, and making sure the seller represents that there haven't been any nuisance problems, such as smoking neighbors or barking dogs.

Sound like a lot to process? Experts warn against going at it alone.

"I can't tell you how many deals I take over from lawyers who messed up — and I'm not just saying that because I'm a lawyer," Gonchar says. "A seller's not going to volunteer any information, and if you don't know what to look for, you can get absolutely killed."