



BOARD OPERATIONS

New York City

## How to Get a New York City Apartment the Pulp Fiction Way: Part 2

By Frank Lovece

*In Part 1 of our hardboiled tale of how to buy a New York City co-op or condo, pulp=fiction style, we met the dame they called The Buyer and we interrogated a couple of brokers and a seller. Now we're on our way to meet the most intimidating mook of all: The guy they call ... The Lawyer*

**Feb. 23, 2012** - Now it was time to talk to the dame's mouthpiece. **Adam Leitman Bailey** had made a name for himself writing books about real estate, like *Finding the Uncommon Deal* (2011). He had a pretty swell set-up, down on Broadway near the courthouses. He was the kind of guy that judges called, "Your honor."

"Most rudimentary sales of properties in New York are typical," he assured me, walking to a liquor cabinet and offering me a shot of bourbon. "Every attorney uses the same contract in almost every transaction."

I told him to walk me through it and to take his time. I could be slow. Real slow. "The seller sends out a contract of sale. The buyer's attorney reviews it and usually adds a rider to give more protection to their client. You make the seller's attorney earn their fee by beefing up the contract a little." He smiled. I shivered.

His man Friday, **Guy Arad**, showed me the Bailey proprietary rider, which said things about appliances being in working order, and the seller having to say if he'd made any complaints to the board about noise, bugs, offensive odors or other quality-of-life things in the past 12 months. Smart.

And smart for both sides of the street. "What the seller wants to be sure of is not getting sued for not disclosing something," **Bailey** said. And to help make sure the seller doesn't put his size-12 brogans in his mouth, saying

something that could lead to a complaint of discrimination. "I recommend they never meet the buyer, and just deal with the broker."

### **The Board: Farewell, My Lovely**

The dame was buying a co-op, it turned out. That means the whole admissions process could still scotch the deal. To give the dame some backup, I headed to see my buddy Wayne Broome. Wayne's on the board of 303 West 66th Street, a co-op of 415 units. His building's gotten to where it runs like a clock, and I don't mean falling down because it has no legs. "The chances of somebody getting rejected once they've been called for an interview [are] pretty slim," he told me. That's because if they're going to reject you, they'll have decided to do it from the financial information, and not even bother to call you in for a sitdown.

"It's very important to separate the financial-review process from the admission process," he said matter-of-factly. "If you're going to reject based on finances, you need to do that before you ever meet that person or persons. Because once you meet them, there's a face — and if they happen to be a member of a protected class and you reject them based on finances, you could be exposing yourself to trouble," since they could conceivably claim it was a thumbs-down based on their race, creed, color, disability, marital or gender status, or any one of the specific protected classes.

Don't get me wrong — people do get rejected from co-ops all the time, even if your finances are jake. Rock stars and Richard Nixon have all gotten rejected for reasons having nothing to do with money.

Worried, I hopped a cab to see Roz Sackoff, board president of the 142-unit condo The Bayside Mews , in Bay Terrace, Queens, to see what my client would have to face if the co-op turned nasty and she had to pull a switch and try getting into a condo.

"We become part of the process when the sales broker gets a commitment from the buyer," Roz told me. "The buyer first has to make sure [he or she] gets a mortgage. Then they go to our management company and request an application. The application gets filled out and then submitted to several of us on the board. Also, since we're a condo, we do not have an interview process." Meanwhile, "The management company gets a criminal report and a credit report for us."

Some boards have amended their governing documents to allow them to reject buyers with criminal records. Generally, though, all a condo board can do is exercise its "right of first refusal" and buy the apartment itself. It sends the buyer a waiver of the right of first refusal if everything's copasetic.

But I shouldn't have worried. For the dame, it all worked out. Her finances were good enough for both bank and board. And there were no trashed hotel rooms, loud guitars, or Watergate in her past. It's like that in this business. You wear out a lot of foot leather running down possible set-ups, and then it just turns on one question: How much does she make?

Still, my guess is that when they got a look at her during that admission interview, they were ready to hand over the keys.