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REAL ESTATE DICTIONARY

The definitions in this dictionary may not be the exact definitions you may find elsewhere. First these terms are defined only to the extent that they relate to real estate. Second, many terms derive from common usage and thus cannot be defined precisely as no exact definition exists. Finally, certain terms are defined in the Contract of Sale and may have a unique definition different than the definition provided herein.

The definitions in this dictionary are to be used only for informational purposes and no decisions should be based upon them. The attorney will explain each relevant term as it pertains to your *individual* Contract of Sale. You may find more information about real estate closings at <http://www.ylevinlaw.com>.

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TABLE OF CONTENTS

APPRAISAL:.....	3	LIMITED COMMON AREAS:	7
BANK ATTORNEY:	3	MANSION TAX:	7
CLEAR TITLE:	3	MORTGAGE:.....	7
CLOSING:	3	MORTGAGE COMMITMENT:	7
COMMON AREAS:.....	4	MORTGAGE COMMITMENT CONTINGENCY:	7
CONDO:	4	NET PROCEEDS:	7
CONDOMINIUM:	4	NOTE:.....	8
CONTRACT OF SALE:	4	OWNER FINANCING:	8
CONTRACT SIGNING:	4	PAYOFF ATTORNEY:	8
COOP:	4	POWER OF ATTORNEY:	8
COOPERATIVE CORPORATION:	4	PRE-APPROVAL:	8
COOPERATIVE UNIT:	5	PROMISSORY NOTE:.....	8
DEED:.....	5	PROPRIETARY LEASE:	8
DOWN PAYMENT:	5	SECURITY INSTRUMENT:	9
DUAL AGENT:	5	SETTLEMENT AGENT:	9
ENGINEERING INSPECTION:	5	SHORT SALE:	9
FORECLOSURE:	5	SPONSOR:	9
GOOD FAITH DEPOSIT:.....	5	STOCK CERTIFICATE:.....	9
HOMEOWNER'S INSPECTION:.....	6	TERMITE INSPECTION:.....	9
HUD-1 SETTLEMENT STATEMENT:	6	TITLE INSURANCE:	10
INSPECTION:.....	6	TITLE SEARCH:	10
JUDGMENT:.....	6	TRANSFER TAX:	10
LIEN:	6	UCC 1:	10
LIEN SEARCH:.....	6	UCC 3:	10

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Appraisal:

An appraisal is ordered by the Bank in order to determine the value of the property the Buyer is acquiring. The bank will only lend based on the appraisal of the property and not the purchase price. For example, if a Buyer is buying a house for \$600,000 and wants to borrow 80% from the bank (\$480,000), and the house appraises for \$500,000, then the bank will only lend \$400,000 (80% of \$500,000).

An Appraisal is different from an Inspection.

Bank Attorney:

The Bank Attorney (or Settlement Agent) is the bank representative representing the bank at the Closing. The Borrower almost always pays the Bank Attorney's fee.

Clear Title:

Clear title refers to the status of title of the property at Closing. A standard Contract of Sale provides that title shall be clear from any Liens, Judgments and Mortgages. A Title Search will reveal if there are any Liens, Judgments or Mortgages that have to be paid off at Closing and Title Insurance protects the Buyer (and the Bank) in case the Title Search failed to reveal any defects in title.

Closing:

A Closing is a "meeting" where the Deed (or Stock Certificate for a Coop) and other legal documents are given to the buyer and money is given to the Seller.

The following individuals usually attend the closing: (1) the Buyer, (2) the Seller, (3) the Buyer's attorney, (4) the Seller's attorney, (5) the Buyer's Bank's attorney, (6) the Seller's Bank's attorney (in Coop transactions only), (7) the Title Closer (in non Coop transactions only), (8) the real estate brokers and (9) the Managing Agent (in Coop transactions only).

The Closing customarily takes place either at the Seller's attorney's office or at the Buyer's Bank's Attorney's office. In Coop transactions, the Closing always takes place at the office of the Managing Agent.

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Common Areas:

Common Areas refer to the areas in a Condominium building that can be used by all occupants of the building (ex: hallways, elevators, etc.).

See also "Limited Common Areas."

Condo:

See "Condominium."

Condominium:

Condominium is one or more buildings registered as a Condominium under the Condominium Act. Each unit in a Condominium is separate real property, is taxed separately and is transferred via a Deed.

Contract of Sale:

A Contract of Sale is a legal document that binds the Buyer and the Seller to complete the transfer. A Contract of Sale is not binding until it is signed by both parties.

Contract Signing:

Contract Signing occurs when both the buyer(s) and the seller(s) execute the Contract of Sale. The buyer does not become the new owner at Contract Signing; the transfer of ownership occurs at the Closing.

Coop:

See "Cooperative Unit."

Cooperative Corporation:

A Cooperative Corporation is a corporation that owns one or more buildings. The shareholders of the Cooperative Corporation are given a Stock Certificate and a Proprietary Lease to indicate their ownership in the Cooperative Corporation.

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Cooperative Unit:

A Cooperative Unit is an apartment in a building owned by a Cooperative Corporation. Ownership in a Cooperative Unit is evidenced by a Stock Certificate and Proprietary Lease. The Purchaser is actually purchasing shares in the Cooperative Corporation and the Proprietary Lease that is transferred together with the shares. The “package” of the Stock Certificate and Proprietary Lease is what is referred to as a Coop.

Deed:

A Deed is a legal document that specifies who the owner of real estate is. Coops are not considered “real estate” and thus there is no deed in a Coop transfer. Coop ownership is generally determined by a Stock Certificate and Proprietary Lease.

Down Payment:

The Down Payment is the amount of money the buyer pays at Contract Signing. This is the amount the buyer stands to lose should he/she breach the contract. At the Levin Law Group, one of our top priorities is to ensure that the buyer’s Down Payment is protected. This is done by inserting contingencies such as the Mortgage Commitment Contingency into the Contract of Sale.

Dual Agent:

A Dual Agent is a real estate agent that represents both the Buyer and the Seller.

Engineering Inspection:

See “Inspection.”

Foreclosure:

A foreclosure is a legal action by a Bank against the Borrower taking away the property for non-payment of the Promissory Note.

Good Faith Deposit:

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See "Down Payment."

Homeowner's Inspection:

See "Inspection."

HUD-1 Settlement Statement:

The HUD-1 Settlement Statement is the official "closing statement" provided by the Department of Housing and Urban Development. The Bank Attorney Prepares the HUD-1 Settlement Statement. The HUD-1 is legally required in almost every residential transaction where a bank is involved. In addition to the HUD-1 Settlement Statement, the Levin Law Group prepares a separate closing statement for the client that is easier to understand.

Inspection:

An inspection usually refers to a Buyer hiring a licensed home inspector to inspect the property for defects, structural damage and termites. An Inspection should be done prior to signing the Contract of Sale so that any repairs the Buyer requires the Seller to make can be negotiated into the Contract of Sale.

An Inspection is different from an Appraisal.

Judgment:

A judgment is a decision made by a court. All monetary judgments have to be paid off by the Seller at Closing.

Lien:

A Lien is a legal claim against the property. The Seller is obligated to remove most Liens against the property before Closing.

Lien Search:

A Lien Search, also known as a Lien and Judgment Search, is a search performed by a Title or Abstract Company to determine if there are any Liens or Judgments against a Coop or its owner(s). The Lien Search is required for any Coop purchase and is usually ordered by the

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Buyer's attorney or the Buyer's Bank's Attorney. It costs between \$300 and \$400, including sales tax.

Limited Common Areas:

Limited Common Areas refer to the areas in a Condominium building that are not part of an individual apartment but are nevertheless reserved for exclusive use by the owners of *one* unit. See also "Common Areas."

Mansion Tax:

For real estate with a sale price of \$1,000,000 or more, the *buyer* pays an *additional* one percent (1%) tax.

Mortgage:

A Mortgage is a legal document allowing the Bank to foreclose on real estate should the Borrower stop making payments as provided in the Note. For Coop transactions, a mortgage is called the "Security Instrument."

Mortgage Commitment:

A Mortgage Commitment usually refers to a legal document from a Bank promising to give the Borrower a loan subject to certain conditions.

Mortgage Commitment Contingency:

A clause in the Contract of Sale authorizing the Buyer or Seller to terminate the contract should the Buyer fail to obtain a Mortgage Commitment within a certain period of time. This is one of the most important clauses in the contract.

Net Proceeds:

Net Proceeds is a term used to describe the total amount available to the borrower after all bank fees, interest & escrows have been deducted. This is the amount the Bank Attorney is bringing to the Closing.

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Note:

A Note is legal document obligating the Borrower to pay the Bank.

Owner Financing:

Owner financing refers to a situation where the Seller sells a property to the Buyer and receives a Note and a Mortgage in return.

Payoff Attorney:

A Payoff Attorney is an attorney representing the Bank that attends the Closing to pick up funds owed by the Seller to the Bank. The Payoff Attorney brings the Seller's original Stock Certificate, Proprietary Lease and UCC 3 termination statement to the Closing. A Payoff Attorney is usually present only at Coop closings and usually charges between \$350 and \$500 for this service.

Power of Attorney:

A Power of Attorney is a legal document given by one party (the "Principal") to another party (the "Agent") authorizing the Agent to act on behalf of the Principal.

Pre-approval:

A Pre-approval usually refers to a lender's written opinion about the Borrower's eligibility to obtain a loan. A pre-approval does not mean that the Borrower will actually get the loan. For legal purposes, a pre-approval means absolutely nothing.

Promissory Note:

See "Note."

Proprietary Lease:

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The Proprietary Lease is the lease given to all Cooperative Unit owners. It is the second of two documents evidencing proof of the Cooperative Unit's ownership.

Security Instrument:

A Security Instrument is a legal document allowing the Bank to foreclose on a Coop should the Borrower stop making payments as provided in the Note. For Condo and House transaction, the security instrument is called a "Mortgage."

Settlement Agent:

See "Bank Attorney."

Short Sale:

A Short Sale occurs when the Seller owes the Bank *more* money than the Buyer is paying for the Property. The Seller's bank takes a loss on the sale and must therefore agree to accept the sale price.

Sponsor:

A sponsor is the developer/builder of a building that sells Condo's or Coop's for the first time to new Buyers. A sponsor is not a reseller.

Stock Certificate:

The Stock Certificate, in the sense that it relates to Coops, is the certificate evidencing the ownership of the shares pertaining to the Cooperative Unit. The Stock Certificate is one of two documents evidencing proof of the Cooperative Unit's ownership, with the other one being the Proprietary Lease.

Termite Inspection:

A Termite Inspection is an inspection ordered by the Buyer to determine that the property is free from termite infestation and damage. Preferably, a Termite Inspection should be

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completed prior to signing the Contract of Sale. Most inspectors performing a Homeowners Inspection will also inspect for Termites upon request.

Title Insurance:

There are two types of title insurance: (1) Lender's Policy and (2) Owner's Policy. The Lender's policy insures that the bank has a valid first mortgage on the property. The Owner's Policy insures that the buyer of the property is the new legitimate owner and that the property is free from any liens, judgments and mortgages (subject to certain exceptions provided in the policy).

Title Search:

In order to provide Title Insurance, the title company performs a Title Search to make sure that title to the property is clear.

Transfer Tax:

A Transfer Tax is a tax paid to the state or the city based on the sale price of the property. By law, the Transfer Tax is paid by the Seller (except for the Mansion Tax and except as otherwise agreed in the Contract of Sale). See our Closing Cost Chart for more information about Transfer Taxes.

It is customary for the *buyer* to agree to pay the transfer tax when buying from a Sponsor. This is just a custom and not a legal requirement.

UCC 1:

A UCC 1 is a document recorded in the county or state records indicating that a loan for a Coop exists. If you are buying a Coop, your Bank will file a UCC 1 prior to Closing to ensure that the Bank's interest is protected. If you are selling a Coop and you have a loan that needs to be paid off, the Bank's Payoff Attorney will bring a UCC 3 to the closing to terminate the UCC 1. The Payoff Attorney will usually charge between \$350 and \$500 for this service.

UCC 3:

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The UCC 3 is a document recorded in the county or state records indicating that a loan for a Coop has been either transferred or terminated. If you are selling a Coop and you have a loan that needs to be paid off, the Bank's Payoff Attorney will bring a UCC 3 to the closing to terminate the UCC 1. The Payoff Attorney will usually charge between \$350 and \$500 for this service.

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