

Many real estate professionals, including investors and brokers, have long held on to the belief that a cooperative (“co-op”) is an inferior investment vehicle as compared to condominiums (“condo”). This is largely because most of the co-ops in New York are subject to very strict board rules, substantially limiting investor’s freedom in buying, managing and disposing of the property. However, it’s time to debunk that myth as that is certainly not always the case. In fact, New York is also home to co-ops with more relaxed and investor-friendly rules, including lack of any restrictions on the form of ownership and the ability to lease the property for profit. With proper due diligence, investing in a co-op can be a very lucrative financial opportunity.

There are many reasons to invest in a co-op, but a few are especially important. First, there’s price. Co-ops are on average 20% to 40% cheaper than condos. While an investor can enjoy this savings in purchase price, the rent charged for co-ops is on par with comparable condos. Second - inventory. The majority of New York buildings are co-ops. Thus, limiting search to condos can lead an investor to miss out on an otherwise profitable acquisition.

Most New York co-ops are bound by specific rules and bylaws governing, among other things, approval of prospective purchasers, tenants, and restrictions on subletting, corporate ownership, sale (“flip tax¹”), and even repairs and alterations. These procedures and restrictions can be quite burdensome for an investor and, often, make the whole investment in a co-op financially unsound. It is critical to review all governing documents and conduct proper due diligence before investing in a co-op not to fall victim to the stringent co-op rules.

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¹ Flip Tax is a device co-op board utilize to impose fees on purchasers who wish to sell the property within a certain period. Average “flip tax” in New York is 2-3% of the gross sales price, or 20% of profit realized from sale.

In recent years, co-op boards have been moving towards relaxing their strict practices to stay competitive in the market place leading to the appearance of investor-friendly co-ops in New York. Investor-friendly co-ops ease up many restrictions of a typical co-op, such as:

- Allowing alternative forms of ownership - by trust, corporation or limited liability company.³ Such shift is especially important to investors who are not looking to purchase real estate in their individual capacity because of liability, reporting and privacy concerns.
- Allowing leasing property for profit or substantially relaxing leasing restrictions. Typical co-ops impose restrictions that either outright prohibit any rental activity or limit the duration of rental period during the time of ownership or some other fixed period of time.
- Removing “flip tax” or other fees associated with the re-sale of the property.

Investor-friendly co-ops are in high demand and short supply because they represent a unique financial opportunity in the New York real estate market. Such properties are rare, with only 2 to 3 available for sale each month. Identifying investor-friendly co-ops requires proper due diligence.

At Feinstein & Partners, we will be glad to consult investors on prospective acquisitions and evaluate individual policies, financial statements and governing documents of the proposed investments to insure our client finds the most investor-friendly option available.

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For over 15 years, we have been providing full legal support to domestic and international clients in connection with their business activities, real estate investments, wealth management and tax planning. Feinstein & Partners was built to serve clients quickly, efficiently and with genuine knowledge of both local and international considerations.

Among our clients are individuals, families, start-ups and established businesses, real estate investors and developers, private funds. With over a decade of experience and a strong professional network, we can get the job done quickly and efficiently, be it devising and implementing a strategy for your business or vigorously defending your rights in any dispute.

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