

## Buying a Co-op with ‘Dummy Money’



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Ask Real Estate

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*Ask Real Estate is a weekly column that answers questions from across the New York region. Submit yours to [torealestateqa@nytimes.com](mailto:torealestateqa@nytimes.com).*

### **Padding the Coffers**

*My fiancé and I bid on an apartment in the Bronx that requires us to have at least two years of mortgage and maintenance in savings, which we could borrow from a bank. I have two friends who have been approved by tough Manhattan co-op boards after they filled their coffers with “dummy money” from their parents — money that their parents lent them temporarily until the sale closed. I want to do the same, but my fiancé worries that we could get caught, leaving us legally on the hook for false representation. I think his fears are unfounded. Could the board really demand to see our financial statements after we own the apartment? What is the worst-case scenario?*

*Spuyten Duyvil, the Bronx*

Just because your friends game the system does not mean you should, too. Instead, trust your fiancé, whose moral compass seems to be steering him away from deception.

If you accept a gift, your lender would require you to sign an affidavit stating that the money is a gift, not a loan (and your co-op may do the same). By knowingly signing a false

legal document, you would very likely be committing fraud. “It’s like lying on your tax returns,” said Daniel M. Shlufman, the managing director of Classic Mortgage. “If you don’t get caught, you still lied on your taxes.”

Do not count on the bank to cover your shortfall. Your lender might not loan you the extra money because, like the co-op board, it might want to see that you have several months of mortgage and maintenance in savings.

As for getting caught, once you own your apartment your co-op board probably does not have the right to examine your financial statements again — and if you pay your maintenance every month, it would have no reason to care.

But many boards have become savvy to such schemes and often require buyers to place a lump sum in an escrow account for a few years as a condition of board approval, said Andrew C. Jorges, a Manhattan real estate lawyer. So Mom and Dad might not get their money back anytime soon.

As draconian as these rules sound, the lender and the co-op want to protect themselves should your finances suddenly take a turn for the worse. “Housing cooperatives are only as strong as their financially weakest shareholder,” Mr. Jorges said. Once you are a shareholder in the corporation, you might feel differently about the scrutiny new buyers face.

I can understand why you might not have two years’ worth of monthly payments lying around after you hand over a hefty down payment. You would not be the first leveraged buyer to set foot in New York.

“They used to say that if it didn’t hurt when you bought it, you didn’t spend enough,” said Richard Davidman, a financial adviser at the Element Financial Group.

But you should have some money set aside for the unexpected; even if nothing goes wrong, you might need to buy some lamps and throw pillows when you move in.

“It’s crazy not to have some money left over after you’ve made a purchase,” Mr. Davidman said. Rather than lie about your finances, try to find a co-op with rules that fit your financial realities. Not all make such stringent demands.

## **Vanishing Hot Water**

*My market-rate rental frequently runs out of hot water. My partner and I cannot both take showers and do the dishes without waiting up to 45 minutes between activities. We've dramatically cut the length of our showers, but still the problem persists. Do any city or state laws address this?*

*Bushwick, [Brooklyn](#)*

You should not have to wait 45 minutes after you bathe to wash the dishes. City rules require that every bath, shower, wash basin and sink in an apartment be supplied with hot water 24 hours a day, at a constant minimum temperature of 120 degrees Fahrenheit.

The law is simple, but getting it enforced might not be. Call 311 and the city could send out an inspector who would turn on your faucet and find hot water. Unless the inspector hung around while you took a shower, he would not learn that your hot water is in short supply. "Without a violation, the landlord has little or no immediate incentive to address the problem," said David E. Frazer, a Manhattan lawyer who represents tenants.

You could be entitled to a nominal rent reduction because your situation violates the warranty of habitability, a state law. To get that, you would have to take the landlord to court. But even if the judge reduced your rent slightly, your water would still run cold. Flash forward to the end of your lease, and your landlord would probably not renew it, as landlords dislike tenants who sue them.

Your best option is to try to reason with the landlord. Point out that the situation violates the minimum hot-water rule and request that he make the necessary repairs.

## **New Four-Legged Neighbors**

*Our co-op building has a "no pets" policy. But a board member told me that there is a loophole to this rule: If an owner adopts a new pet — in our case, someone has adopted a dog — and the board does not take any action during the first 21 days, it becomes "legal." Is this true?*

*Bay Ridge, Brooklyn*

Silence is its own answer. And the city takes a co-op board's silence about a new pet to mean "yes." But [the board must remain mum for three months](#), not three weeks.

The rule applies to co-ops, rentals and some condominiums. It kicks in if the landlord or board knew about, or should have known about, the pet. Since your board is aware of the situation, it has three months to start a lawsuit against the shareholder if it wants to evict the pooch.

Your building could take this as an opportunity to reassess. What do residents actually want? Do they recoil at the sight of a furry creature in the elevator? Or are they fond of four-legged neighbors? Buildings must also accommodate residents with disabilities for whom a pet is medically helpful, regardless of the policies. Darryl M. Vernon, a Manhattan lawyer who represents apartment owners and handles disability matters, said: "I recommend that you have a reasonable policy that reflects the needs of unit owners."

***Correction:*** March 7, 2016

*An earlier version of this article misstated the hours for which hot water must be supplied to apartments, according to New York City rules. It must be available 24 hours a day, not from 6 a.m. to midnight.*

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