

Real Estate FAQ of the Month

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RD ROMER DEBBAS
LLP



How To Purchase in AIR Buildings

The Multiple Dwelling Law definition of an “artist”

“...a person who is regularly engaged in the fine arts, such as painting and sculpture or in the performing of creative arts, including choreography and filmmaking, or in the composition of music on a professional basis, and is so certified by the city department of cultural affairs and/or state council on the arts.”

Per the NYC Dept. of Cultural Affairs, “...any person who rents, subleases, or purchases a loft in Soho, Noho, and/or AIR space elsewhere should be certified....**Prior to Occupancy.**”

Artist in Residence (A.I.R.) buildings are primarily located in Soho & parts of Brooklyn.

The Dept. of Buildings zoned certain areas for this type of occupancy in the late 60s to provide housing for artists who could not afford an apartment, as well as work studio. A.I.R. allowed them to legally work out of their apartment. Technically, you have to be a “certified artist” to occupy an A.I.R. unit. Fast forward to present day and you’ll see that the vast majority of units in these areas are in fact NOT occupied by certified artists.

The certificate of occupancy (“CO”) for an A.I.R. building will state that they are JTLWS, which stands for “Joint Live Work Space.” The city has not enforced the JTLWS requirement for several years; however the non-certified artist occupants are technically occupying their units in violation of the CO.

Can You Finance in AIR Buildings?

Yes, but options are limited.

Many lenders are hesitant about lending to prospective purchasers in AIR buildings. Just as non-artists are assuming the risk by occupying such apartments, the lenders are assuming the risk by lending to such non-artist certified buyers.

The major risk in purchasing in an AIR building comes when the building only has as a temporary CO.

If a temporary CO is in place, the risk is that the NYC Dept. of Buildings may require artist certification from each occupant prior to issuing a permanent CO. If the temporary CO expires and no CO is in place, lenders will absolutely not lend in that building. If a permanent CO is in place, then the risk is mitigated significantly and more lending options become available.”

Most lending options are offered through portfolio lenders accessible through mortgage brokers, such as Guaranteed Rate. Debra Shultz, SVP at Guaranteed Rate’s Manhattan Division, has extensive experience financing in AIR buildings. Michael Romer & Pierre Debbas of Romer Debbas have extensive experience negotiating contracts in AIR buildings.

If you have a buyer considering a purchase in an A.I.R. building, please feel free to refer them to Debra,

Michael or Pierre for legal and/or lending advice.



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