

## ADVISORY REGARDING TENANT-OCCUPIED PROPERTY

Buyers considering the purchase of property occupied or to be occupied by tenants should conduct due diligence beyond the typical property purchase.

**1. LAWS AND RULES:** Because housing is important to individuals and society, federal, state, and local laws and rules govern many aspects of the landlord-tenant relationship. Buyers should familiarize themselves with applicable laws and rules so that they understand how laws and rules impact their rights as landlords, their obligations to tenants, and the income they can expect to earn from owning rental property. Among other things, buyers should investigate:

- (a) ordinances, zoning, and homeowner association limitations on the types of tenancies allowed;
- (b) Fair Housing and nondiscrimination practices for property, screening tenants, or enforcing leases;
- (c) provisions required or prohibited in leases; and
- (d) notices that landlords give tenants, including rent increases, entry, termination, and lease violations, along with the required content, time periods, and delivery methods.

Buyers should consult with an experienced property manager or landlord-tenant attorney about these issues.

**2. SALE AGREEMENT CONSIDERATIONS:** Buyers and sellers should agree on how and when the seller or property manager will post required notices of entry or obtain the tenant's agreement to photos, virtual tours, showings, and inspections of the property without notice, which inspections the buyer may perform, which items of personal property the tenant owns, whether the buyer wants the tenancy to end before closing or continue; and:

- (a) If the buyer wants the tenancy to end before closing, whether the tenancy can legally be terminated (buyers should understand the time and cost requirements of eviction before agreeing to accept a difficult tenant), who will pay the costs of terminating the tenancy, and who will rekey the property when the tenant vacates; or
- (b) If the buyer wants the tenancy to continue after closing, whether the lease is acceptable to the buyer, the tenant's rental history, how any

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deposits being held will be handled, the condition of the property upon lease commencement, the changes the buyer can legally make to the property after closing, and whether an estoppel certificate will be used to help the buyer determine the tenant's compliance with the lease.

Unless your real estate agent is an expert in landlord-tenant law, their name should not be referred to tenants for help with landlord-tenant issues.

**3. FINANCING:** Buyers who obtain conventional financing must live in the property for at least one year after closing. Financing for tenant-occupied property may require a higher credit score, debt-to-income ratio, down payment, and interest rate.

**4. LOW-INCOME HOUSING:** Buyers considering renting to low-income families using HUD's Housing Choice Voucher Program (Section 8) can find more information by contacting their local Public Housing Authority (see <https://resources.hud.gov>).

**5. INSURANCE:** Buyers should talk with their insurance brokers to ensure they obtain the proper insurance coverage.

**6. CONTINGENCIES:** Buyers and sellers should ask their real estate agents to include contingencies in their sale agreements that allow investigation or resolution of the issues described in this advisory.

**7. ACKNOWLEDGMENT:** The undersigned parties acknowledge they (a) have read and understand this advisory; (b) have been provided with a copy for their files; and (c) are aware that they should conduct appropriate due diligence when buying property occupied by tenants.

Client \_\_\_\_\_ Date \_\_\_\_\_  a.m.  p.m. ←  
Print Name \_\_\_\_\_

Client \_\_\_\_\_ Date \_\_\_\_\_  a.m.  p.m. ←  
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