



TENANCY IN COMMON ("TIC") OWNERSHIP ADVISORY

(C.A.R. Form TIC-OA, 12/21)

This Tenancy In Common ("TIC") Ownership Disclosure concerns the residential property described as _____, _____ ("Property").

1. **OWNERSHIP:** A Tenancy-In-Common (TIC) is a form of group ownership under California law which is created when two or more individuals or entities have an undivided ownership interest in the same property, such as an apartment building. You will co-own the entire Property with other investors/co-owners as a tenancy in common and share common costs such as taxes, insurance, building maintenance, repairs, and, possibly, a shared mortgage.
2. **A TIC IS NOT A CONDOMINIUM:** TICs are not condominiums or common interest developments and, therefore, fall outside the protections and requirements of the Davis-Stirling Common Interest Development Act (the "Act"). As such, TIC owners do not have deeded rights to their units and clear ownership of, nor obligations regarding, common areas as do owners in condominiums or other ownership interest under the Act.
3. **THE NEED FOR A TIC AGREEMENT:** Most protections for TIC projects are contractual, based on a TIC agreement. If a problem arises, you will be relying on the provisions of the TIC agreement. If you do not have a valid TIC Agreement, you may be subjected to a variety of legal and financial issues or problems. For instance, you may not have a legally enforceable right to exclusive use of a specific residential unit or a specific parking space without a TIC agreement executed by all co-owners because you do not own the specific unit or parking space as you would in a condominium project. Or one co-owner may have the legal right to a partition, which is a forced sale of the entire property even if other co-owners object. It is important to note that TIC agreements vary greatly. It is essential that all current co-owners sign the TIC agreement. Any person who becomes a co-owner in the future should, along with existing co-owners, sign an amendment to the TIC agreement accepting all rights and responsibilities for that co-tenancy share under the TIC agreement. A TIC agreement may not be binding on a co-owner who does not sign it and therefore all co-owners should retain a copy of the executed TIC agreement along with any exhibit or amendments. Buyer is strongly advised during Buyer's investigation period to seek qualified real estate legal counsel to review the TIC agreement to ensure that it affords adequate protection and to inspect the entire building, not just the unit Buyer will occupy.
4. **RECORDS:** Most TIC projects are required under their TIC agreement to maintain financial and governing records. For an existing TIC, Buyer is advised to carefully review these records to ascertain the current status of the TIC.
5. **FINANCING:** Financing for TIC projects is done through either a group loan or a fractional TIC loan. Buyer should evaluate the risks and benefits of both options when choosing how to finance the purchase of this type of property.
 - A. **Group Loans:** A group loan, as the name implies, is taken out by multiple co-owners and is secured by the entire property. As a result, Buyer is relying on the owners of other interests in the property to meet their obligations to the lender. For instance, if one co-owner defaults on its share of the debt and the other co-owners do not pay the defaulting co-owner's share, then the lender would be entitled to foreclose on the entire property leading to the loss of all of the co-owners' interests in the property even if others are making timely payments on their share of the loan. Likewise, if one co-owner needs to refinance, it can have an impact on the other co-owners who all need to participate in a new group loan because (i) there could be an interest rate increase, or (ii) one of the co-owners may no longer qualify for a loan, or (iii) group loan financing may not be available on the same terms and conditions. An adequately drafted TIC agreement will provide some protection in these circumstances. However, even a well-drafted TIC agreement cannot protect against all problems that can arise in co-ownership. Therefore, before sale Buyer should assess the financial ability and responsibility of the other co-owners and request relevant credit information.
 - B. **Fractional TIC Loans:** Another financing option is a fractional TIC loan. This type of loan is secured only by the borrower's individual interest. Although the risk associated with this type of loan is lower in one sense because it is secured only by a co-owner's single interest, it has other risks of which Buyer should be aware. These loans have only been available for a few years and only a small number of lenders currently offer them. There is no guarantee that these loans will be available in the future when Buyer decides to sell or refinance. In that event, Buyer would need to seek a group loan. Accordingly, Buyer should review the TIC agreement to determine if other co-owners are required to participate in obtaining a group loan. Also, fractional TIC loans are generally more expensive and have more stringent qualifications than group loans. Again, this could affect Buyer's ability to sell as finding a qualified new Buyer may be difficult.
6. **CASH PURCHASE:** If Buyer intends to forego financing to be secured by the Property and pay the complete sales price in cash, Buyer is advised to seek qualified legal advice regarding the effect of the group loan on Buyer's interest in the Property.
7. **RESALE:** In addition to possible problems associated with reselling due to a potential lack of financing for the new buyer, there are other resale issues to consider. Buyer should carefully review the TIC agreement and seek the advice of qualified legal counsel to determine if there are any contractual requirements for resale, such as consent by the other co-owners and the payment of costs under the TIC agreement. If resale requires financing of the group loan at a higher monthly cost, the seller is often required by the TIC agreement to offset the additional costs incurred by the non-selling co-owners.
8. **CONDOMINIUM CONVERSION:** Conversions of TIC interests into condominiums may involve complying with the Subdivision Map Act and the Subdivided Lands Act, complex laws involving both local and state approvals for conversion. Additionally, state, city and county laws and regulations may impose additional requirements for conversions, especially when dealing with tenant protections such as just cause eviction and rent control laws. Buyer is advised to consult with qualified legal counsel familiar with applicable state and local laws regarding condominium conversion.

Buyer has read and understood this TIC Ownership Advisory and had the opportunity to seek independent legal counsel to review the risks of tenancy in common ownership. Buyer has not relied on any oral statements from Seller or Broker concerning how this TIC project will function.

Buyer _____ Date _____ Buyer _____ Date _____

BROKERS/AGENTS CAN ADVISE ON REAL ESTATE TRANSACTION ONLY. FOR LEGAL OR TAX ADVICE, CONSULT A QUALIFIED CALIFORNIA REAL ESTATE ATTORNEY OR CPA.

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