

TIC's in San Francisco

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What does TIC mean?

TIC stands for tenancy in common or tenants in common. "Tenants in common" is actually a very basic legal term. It applies to the rights of parties that own or live together. When owners are tenants in common they own a percentage of the property and have the legal right to occupy any and all parts of the property.

How do TIC's work?

TICs are buildings that do not have a parcel or final map recorded and are therefore not legally subdivided into condominiums. Many times TIC buildings were formerly used as apartment buildings. When a TIC building is first created, a real estate agent usually locates prospective buyers. These buyers will initially buy interests in the building simultaneously as tenants in common, and sign a contract called a TIC Agreement. Subsequent buyers will buy an interest in the building subject to the existing TIC Agreement. Recall from above that tenants in common have the right to occupy the whole building. A TIC Agreement is used to grant exclusive usage rights pertaining to the units in the building as well as certain portions of the common area. Without this contractual agreement an owner would not have the exclusive right to occupy his or her unit, or use a particular parking space or storage area. This contract also contains provisions, some similar to those found in CC&Rs, which govern the rights, duties, and liabilities of each owner. A governing body for the building consisting of the building's owners is also created under the agreement. Unlike CC&Rs that normally get recorded, it is illegal to record a TIC Agreement.

In housing markets where a shortage of condominiums exists, such as in San Francisco, TICs have sprung up as a way to own property.

How are TICs different from condos?

Again, TICs are not legally subdivided. Therefore legally the units in the building are not recognized as separate units. This has many repercussions, for instance, without a contract there are no rights of owners to exclusively occupy the individual units. Also owners own a percentage in the entire building and therefore are each fully responsible for all costs and liabilities of the building--unless there are contractual rights in place under a TIC Agreement defining the division of costs and responsibilities agreed upon by the owners.

Can you sell your TIC unit?

You cannot sell the unit, since you do not own the unit. However, you can sell your percentage interest in the building and your exclusive usage rights for a particular unit under the TIC Agreement. Most TIC Agreements have very specific language that governs situations where an owner wants to sell his or her interest in the building, for example there may be a right of first offer, and certain approval procedures that the prospective buyer must go through. Buyers that are buying into an existing TIC Agreement should read through the entire agreement and seek an attorney to answer any questions and possibly review the agreement.

Are all TIC agreements the same?

No. TIC Agreements vary drastically from law firm to law firm. Even agreements that are generated by the same law firm often contain different provisions designed to suit a particular property. Since there are few laws that regulate TIC properties, it is important to have a thorough agreement that addresses various scenarios that may arise, such as cases of default or dispute, in addition to general provisions regarding the rights, duties, and liabilities of each owner.

What are individual TIC loans or fractionalized loans?

Fractionalized TIC loans are loans that are encumbered only by the obligor's interest in the property as opposed to the whole building. Most TIC properties have group financing, whereby all of the owners are on the same loan and that loan is secured by the whole property rather than just one owner's interest. In the case of default under a group loan, the other owners are at a higher risk of losing their property. Individual financing is usually preferred by TIC buyers, however not many lenders offer this type of financing and the interest rates are normally higher and the qualification standards are normally more stringent. For more information on lenders that offer individual financing, please visit our website at www.zulpc.com.

What TIC services does ZULPC offer?

Zacks, Utrecht & Leadbetter, PC offers many services relating to TIC buildings, including:

- Drafting pre-marketing TIC Agreements for developers who are planning to sell the units and do not yet know the identity of the buyers
- Drafting TIC Agreements where buyers' identities are all known
- Drafting TIC Agreements for owners that will share a unit
- Drafting the purchase and sale contract documentation for TIC properties
- Drafting financing documents for fractionalized TIC loans
- Reviewing TIC Agreements
- Mediating TIC disputes
- Litigating TIC disputes
- Obtaining Public Reports for TIC properties consisting of 5 or more units

- Condo converting TIC properties

In addition, we are the only law firm licensed to use “Sirkin TIC Agreements” for 2-4 unit properties. For prices on our services, please visit our website at www.zulpc.com.