

Intersection of Landlord-Tenant and Conveyancing: Representing Buyers of Occupied Properties

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PRECLOSING CONSIDERATIONS AND DUE DILIGENCE

- Obtain and review all leases, addenda, modifications, and extensions
- Rent Ledgers
- Confirm rent amounts, last months' rent deposits, and security deposits (and documents related thereto)
- Section 8, HAP, or other subsidized rental contracts
- Tenant Lead Law Notification Forms
- Tenant Estoppel Certificates
- Including rent and deposit information in the Purchase & Sale Agreement (appraisal considerations)
- Vacant Unit Contingencies
- Services of Notices to Quit prior to closing

CONFIRMATION OF ZONING AND LEGAL USE

- Confirm the legal use of the dwelling with the City/Town (Certificate of Legal Use)
- Zoning – Residential, Commercial, ADUs/In-law units
- Contingencies entitling the Buyer to return of deposit if the property is not zoned for its current use
- Delivering illegal units vacant

SPECIAL CONSIDERATIONS FOR COMMERCIAL TENANCIES

- Preliminary due diligence checklist
- Financial Due Diligence (profit and loss statements, Rent Rolls, Tax returns)
- Service contracts
- Insurance
- Business licenses
- Inventory of furniture, fixtures, equipment, supplies
- Utility bills
- Litigation History

POST-CLOSING: RAISING THE RENT

- The Buyer cannot unilaterally change the terms of the current agreements with tenants without the tenants' consent
- Tenants must agree to pay the rent increase
- Provide timely notice of rent increase
- Review lease provisions regarding rent increases for subsidized/section 8 tenants

POST-CLOSING: OBTAINING POSSESSION OF A UNIT

- Notices to Quit
- Evictions
- Considerations for evicting subsidized/Section 8 tenants
- Tenants' Defenses and Counterclaims
- Building code violations
- Levying on the execution
- Post-Foreclosure Evictions