

# Tenant in Possession

***Tenant in Possession is a very important aspect of the transaction.***

## **RIPA [Residential Income Purchase Agreement]**

1. If the **Buyer intends to keep tenants** in a residential income property, this is covered in the RIPA [Residential Income Purchase Agreement].
  1. Seller needs to provide copies of all existing Lease(s) for each Tenant.
  2. Seller needs to provide Tenant Estoppel Agreement(s) for each Tenant.
  3. Seller & Buyer need to come to an agreement of how to handle any security deposits involved.
  4. Existing Lease(s) may be cancelled as of Close of Escrow and new Lease(s) executed between current Tenants and new Buyer.

## **RPA [Residential Purchase Agreement]**

If Buyer is purchasing property as a primary residence and Tenant remains in Property after Close of Escrow.

- **Listing Agent must confirm that Seller has given proper notice to vacate to the existing Tenant.**
  - **Selling Agent must also confirm that Seller has given proper notice to vacate to the existing Tenant.**
1. Tenant must be given proper legal notice to vacate.
    1. **Notice to Vacate must be at least 60 days notice**, in writing, delivered by **Certified Mail / Return Receipt Requested**.
      1. Verbal notice is not adequate.
      2. Email notice is not adequate.
      3. Notice by regular mail is not adequate.
      4. Section 8 Tenants must be given 90-days notice.
      5. Being told "Don't worry, they will be out" is NOT sufficient evidence.
    2. Note **RPA paragraph 9.D**. Tenant-occupied property: **Property shall be vacant at least 5 (or \_\_\_) Days Prior to Close Of Escrow**, unless otherwise agreed in writing. Note to Seller: If you are unable to deliver Property vacant in accordance with rent control and other applicable Law, you may be in breach of this Agreement. OR \_\_\_Tenant to remain in possession (C.A.R. Form TIP).
    3. **Do not use the CAR Form TIP [Tenant in Possession].**
    4. **Extend Close of Escrow until Tenant has vacated.** This makes Seller responsible to get the Tenant to vacate instead of the Buyer. If at all possible, this is the best way to handle a tenant situation.
      1. **Typical scenario** – Close of Escrow is on 27th of month and Tenant may remain until 30th.

- Buyer is at great risk of Tenant not vacating on the 30th and then Buyer would assume the responsibility to make sure Tenant moves out before Buyer can move in.
- Buyer can not move into property anyway – until Tenant moves out.
- It is recommended to extend Close of Escrow until Tenant moves out – leaving the Seller with the responsibility to make sure Tenant is out before Buyer takes ownership.