

MULTI-UNIT RESIDENCES

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- Definition
- Agreements of Purchase and Sale
- Title Insurance
- Building and Zoning Search
- Financing
- Legal Fees
- House Insurance
- Compliance

- Two or more separate dwelling units in a house or building, usually with separate entrances
- Not to be confused with a “Rooming House” which equates to shared bathrooms and kitchens.

Building, Zoning and Fire Retrofit

- Sellers Agents should consider:
 - No representation or warranty made in regard to any retrofit status of the units in the house/building, or legality of current use.
 - No representation or warranty made in respect of conformance to municipal by-laws, building and zoning.
- Buyers will consider:
 - Add a warranty confirming legal retrofit status and that the property conforms with all building and zoning requirements;
 - Buyers agents should also draw their attention to standard clause number 8. If Buyers is depending on continuing its use as a multi-unit, then “multi-unit” or “X units” should be inserted in place of “single family dwelling”

Tenants

If the property is tenanted, Buyer's Agents should insert clauses or conditions requiring:

1. The Seller shall produce a Tenant Acknowledgment signed by all Tenants on or before closing confirming rent, deposits, lease in good standing;
2. The Seller shall provide a copy of all written lease agreements for the Buyer's review;
3. The Seller is to provide written notice to all Tenant/s to vacate as per the Residential Tenancies Act (if Buyer wants to occupy the Unit or do substantial reno) – Form N12 or N13 – Next Slide

Vacant Possession

- Personal Use by Landlord
 - Must be Child or Parent of Landlord or Landlord's Spouse
 - Month-to-month or yearly tenant requires 60 days notice from the end of a rental period
 - Use Form N12
- Renovation or Demolition
 - Month-to-month or Yearly tenant requires 120 Days notice from the end of a rental period
 - Use Form N13

- In single family home residential purchases, title insurance companies waive the requirement for non-title, subsidiary searches such as fire, building and zoning compliance; therefore reducing legal costs for the client;
- For multi-unit properties, title insurance companies typically require that fire, building and zoning searches be completed. If these searches are not obtained and there are any post closing issues that would have been identified by these searches, the Buyer will not be covered by title insurance ie: the cost of upgrading a unit to comply with current fire codes or retrofit status;
- Results: If a fire code compliance search is required, an inspection of the property by the fire department is required, resulting in additional costs to the Buyer (\$100.00 -\$500.00). If the unit property does not comply, the Buyer could also face the construction cost of bringing the unit up to code.
- Can waive compliance search but no coverage is provided for issues related to rental units.

- A letter/certificate issued by the City providing high level disclosure with respect to:
 - Open permits for building, demolition, plumbing, HVAC etc.
 - Work Orders imposed by the City against the Property, such as adding a railing to a deck
- Shows current zoning of property
- Does not show how many units the City records as being permitted on the property
 - Eg. We had a client who bought a tri-plex. Building and Zoning search indicated that it was zoned for a duplex or triplex. No disclosure that City thought it was a duplex. When client applied for building permit to upgrade a unit, the City turned them down because they had the property recorded as a duplex and said the lands could not support a triplex. Seeking coverage from title insurance – not resolved yet.

- Some mortgages require that the Buyer/Mortgagor swear a statutory declaration that the property will be owner occupied and no portion of the property will be tenanted for the duration of the mortgage.
- The Buyer is advised to inform her/his mortgage representative whether the property is a multi-unit dwelling or not and whether the Buyer intends to rent out the unit.
- Some banks will then change their loan requirements and some will not (2 or more units usually require stricter loan requirements-investment property).

- Typically, if the title insurance company requires additional searches to be completed, then this translates directly into higher legal fees for the Buyer as each responding entity charges fees for searches or on-site inspections.
- In addition to time spent reviewing these searches, lawyers will also spend time reviewing the written leases which may result in additional costs to the Buyer.
- Buyer will want additional Tenant Acknowledgments if there are tenancies being assumed.

- Buyers are advised to inform their insurance company if the property is a multi-unit residence and whether the Buyer intends to rent out the units
- Severe liability issues may arise if improper or inadequate insurance is obtained-Fire, injury etc.

- Buyers may be required to ensure that units conform to applicable provincial and local codes, which may include:
 - Fire alarms
 - Carbon monoxide alarms
 - Minimum of 2 entrances/exits per unit (some exceptions)
 - Fire rated doors separating units
 - Lit entrance/egress

A few basic requirements for a legal basement apartment in Toronto:

- The front of the house cannot be significantly altered to change its appearance from that of a one unit building.
- Basement unit must be smaller than the other units.
- Minimum ceiling height is 6'5". Ceiling must be continuous. Suspended (T-bar type) ceilings and exposed joists are not acceptable. Furnace room ceiling must be dry walled or plastered too.
- Doors must be solid wood or metal and minimum thickness is 1.75". Exterior door must be at least 32"x78". The smallest dimension of the window is 18" and the opening must be at least 600sq in. Windows must be within 3' of ground, and if there is window well it must extend 3' from the house wall to allow room to crawl out.

- Bathrooms have to have either a window or fan.
- Cupboards having a capacity of not less than four cubic feet multiplied by the total number of persons occupying the unit..
- In most areas an additional parking space is required for new apartments. If there is a parking spot for the upper unit, there must also be a parking spot for the basement.
- Smoke alarms and Carbon Monoxide alarms
- An electrical inspection by Electrical Safety Authority and all the deficiencies identified during the inspection must be addressed.
- A continuous separation with a 30 min. Fire Resistance Rating is required between dwelling units and between dwelling units and other areas. Lesser degrees of Fire Resistance Rating may be acceptable with the provision of interconnected Smoke Alarms or Sprinkler Protection.

COHEN

Barristers & Solicitors **LLP**

(416) 380-7550

COHEN LLP
41 Wynford Drive
Toronto, Ontario
M3C 1K1

COHEN HORVATH
1310 11th Street SW
Calgary, Alberta
T2R 1G6