



KDV San Francisco Real Estate Law FAQs (frequently asked questions)

Condominium v. Tenancy-in-Common (“TIC”) Unit

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by A. Jeanne Grove

The following article is a summary of the key differences between a condominium and a TIC unit, which every buyer should understand before considering the purchase of either type of unit.

What is the difference between ownership of a condominium versus a TIC unit?

Though at first glance condominium ownership may seem similar in many ways to TIC ownership, there are some fundamental differences every owner should be aware of:

In a tenancy-in-common (“TIC”) ownership, each owner owns an undivided interest in the same property. TIC ownership applies to the entire building, so every owner could ostensibly argue that they have a right to access, use and occupy all parts of the property. TIC owners (called “co-tenants”) avoid this issue by contracting around it. They enter into TIC agreements that assign each co-tenant a right to exclusively occupy a specified dwelling unit on the property and assign all co-tenants the right to non-exclusively use specified common areas on the property. Most TIC agreements will also establish clear guidelines and restrictions as to the division of property expenses, maintenance of the property, rentals and resale of dwelling units therein.

By contrast, in a condominium setup, each owner owns their condominium unit as their sole property. Each owner also has the non-exclusive right to access and use common areas of the property, which are jointly owned by all the condominium owners and regulated by a Homeowners Association (HOA). Owners may sometimes be assigned exclusive use rights to a specified common area, such as a deck or a garage.

Similar to a TIC agreement, HOA rules and guidelines regulate the use and maintenance of the common areas and usually also impose some restrictions on the use of the separate dwelling units, to the extent use of the separate dwelling units may affect the property or other units in the building. For example, a HOA might impose restrictions on an owner’s alterations to a unit to ensure such alterations do not affect the structural integrity of the building. A HOA may also limit an owner’s right to lease the unit to third parties. HOA’s also typically charge dues called “assessments” that are intended to offset the cost of maintenance and repair of common areas.

Do different rules apply in a condo v. a TIC unit?

Yes. In California, a number of statutes apply to the HOA and its members, including the Davis-Stirling Common Interest Development Act (Davis-Stirling). HOA’s are required to have governing documents often called a “Declaration” or “CC&Rs.” Some HOA’s may also have Bylaws or House Rules, and in some cases where a HOA is an incorporated entity, it will also have Articles of Incorporation. Updates to the Davis-Stirling Act result in automatic changes to rules affecting HOA’s. However, some Davis-Stirling rules operate simply as “baseline” rules and may be modified through the HOA governing documents. Because statutes apply to the HOA, there is also a history of court decisions that may serve as precedent to determine how a current HOA dispute will be decided.

By contrast, there is no Davis-Stirling Act or statutory equivalent for TIC agreements. Simply put, TIC agreements are private contracts for which there is no local or state statutory regulation that defines the baseline rules. Instead, all such agreements are subject only to the law of contracts and may therefore include diverse rule implementations that are quite unique from property to property. Because no statutory or local regulation applies to TIC agreements, there is more uncertainty in how issues are decided in a TIC dispute.

How are condos and TIC units similar?

Condos and TIC units can have many similarities, particularly with respect to problems that arise among owners. Typical disputes that arise in both situations include: noise/nuisance, pets, use of common areas, tenants, and repair/maintenance of common areas. Also, because owners typically live in close proximity to each other, disputes involving parties in a condo or TIC dispute can become highly personal and therefore more difficult to resolve.

How are condos and TIC units different?

The key difference between the two types of units is the form of ownership: a condo is ownership of a sole piece of property; a TIC is a shared form of ownership with one or more co-tenants. Because TIC co-tenants share one piece of property, they are jointly and severally liable for all property-related liabilities, such as property taxes, usually a shared mortgage, and also claims made by third parties relating to the property. A condo owner, by contrast, owns the condominium, and does not share ownership with other owners in the HOA. However, a condo owner does share an undivided ownership interest with other condo owners in common areas of the HOA.

Also, as noted above, the laws that apply to each type of unit are vastly different and dictate how issues are resolved between owners.

What makes Jeanne Grove at KDV unique?



Jeanne Grove has been handling real property disputes for the past 15 years, including TIC and HOA/condo matters. Jeanne has extensive experience taking cases to trial and arbitration for TIC and condo/HOA disputes, and is also adept at resolving conflicts between parties. She focuses on finding cost-effective solutions for owners in a dispute, and can also implement strategies to leverage the best outcomes for clients in litigation. At KDV Law, our real estate practice group routinely handles cutting-edge matters for clients involved in a range of complex real estate issues, including those that involve a TIC or condo.

We engage closely with our clients to ensure that we have a comprehensive understanding of their needs, goals and limitations. We form collaborative relationships and maintain a transparent communication style, thus giving our clients the opportunity to discuss their concerns openly with our team. Our demonstrated success in achieving our clients' objectives gives us a substantial advantage over the competition.

Jeanne is currently a partner at Kaufman Dolowich Voluck, LLP and can be reached at 415-926-7600, 707-509-5260 or by email: jgrove@kdvlaw.com

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Kaufman Dolowich & Voluck San Francisco

425 California Street
Suite 2100
San Francisco, CA 94104
Tel: (415) 926-7600
Fax: (415) 926-7601

Sonoma

651 1st Street West
Suite M
Sonoma, CA 95476
Tel: (707) 509 - 5260
Fax: (707) 509 - 5261