

# **HOW TO SELL A TENANT OCCUPIED HOME**

WHAT YOU NEED TO KNOW ABOUT  
THE ADDENDUM REGARDING RESIDENTIAL LEASES

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# **KEY POINTS**

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- **What is a Residential Lease?**
- **Termination of Leases**
- **Assignment and Assumption**
- **Delivery of Residential Leases**
- **Transfer of Security Deposits**
- **Lease Issues and Resolution**
- **The Take-Away**

# INTRODUCTION

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## ADDENDUM REGARDING RESIDENTIAL LEASES

### RESIDENTIAL LEASES

A residential lease means any lease of the Property to a tenant including any addendum, amendment, or move-in condition form.

Some real estate transactions involve leased premises – tenant occupied – and there are protocols that must be followed, disclosure that must be made and transfer of security deposits.

A Best Practice is to ask your buyer(s) if they want to make an offer on properties under a Residential Lease.



# **WHAT IS A LEASE?**

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A Lease Agreement is a Contract between a Landlord and a Tenant that states what the Tenant will pay monthly for Rent and for how long.



# RESIDENTIAL LEASE

## RESIDENTIAL LEASE DEFINED

"Residential Lease" means any lease of the Property to a tenant including any addendum, amendment, or move-in condition form.

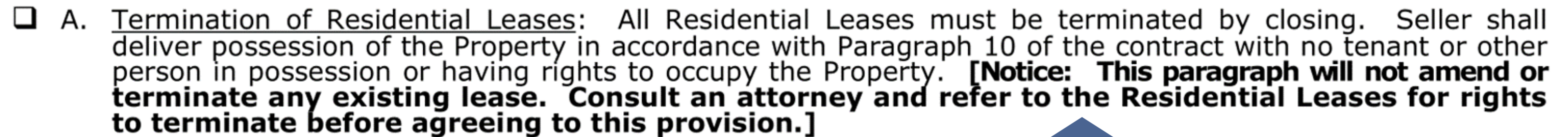
Seller may not execute any new Residential Lease or amend any Residential Lease without Buyer's written consent. Existing Residential Leases will have the following status at closing. (Check only A or B)

## SELLER RESTRICTIONS

# TERMINATION OF LEASES



ALL LEASES WILL  
BE TERMINATED  
BY CLOSING

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- ☐ A. Termination of Residential Leases: All Residential Leases must be terminated by closing. Seller shall deliver possession of the Property in accordance with Paragraph 10 of the contract with no tenant or other person in possession or having rights to occupy the Property. **[Notice: This paragraph will not amend or terminate any existing lease. Consult an attorney and refer to the Residential Leases for rights to terminate before agreeing to this provision.]**




CONSULT AN  
ATTORNEY  
AND VERIFY  
RIGHTS TO TERMINATE




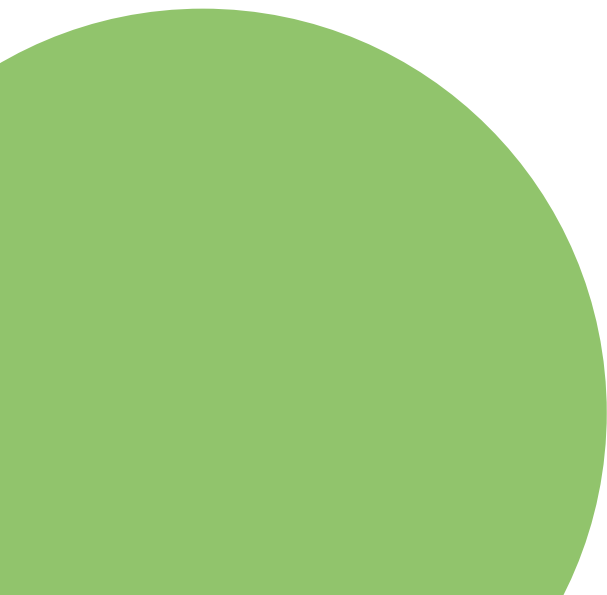
# ASSIGNMENT & ASSUMPTION OF LEASES



- ☐ B. Assignment and Assumption of Residential Leases: Existing Residential Leases shall be assigned by Seller and assumed by Buyer at closing.



RESIDENTIAL LEASES  
WILL BE ASSIGNED  
TO AND ASSUMED  
BY THE BUYER



# DELIVERY OF RESIDENTIAL LEASES

**BUYER HAS RECEIVED  
RESIDENTIAL LEASES**

**\*THIS CREATES  
ANOTHER OPTION  
PERIOD!**

(1) Delivery of Residential Leases: (Check one box only)

- ☐ (a) Buyer has received a copy of all Residential Leases.
- ☐ (b) Buyer has not received a copy of all Residential Leases. Seller shall provide a copy of the Residential Leases within 3 days after the Effective Date. Buyer may terminate the contract within \_\_\_\_ days after the date the Buyer receives the Residential Leases and the earnest money shall be refunded to Buyer.

**BUYER HAS NOT  
RECEIVED  
RESIDENTIAL LEASES**



# TRANSFER OF SECURITY DEPOSITS

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(2) At closing, Seller shall transfer security deposits (as defined under §92.102, Property Code), if any, to Buyer. At closing, Buyer shall deliver to the tenant a signed statement acknowledging that the Buyer has acquired the Property and is responsible for the return of the security deposit, and specifying the exact dollar amount of the security deposit.



## BUYER & SELLER OBLIGATIONS

**Seller Transfers Security Deposit(s) at Closing**

**Buyer Delivers Signed Statement(s) to  
Tenant(s) Regarding Return of Deposit(s) and  
Amount(s)**

# RESIDENTIAL LEASE ISSUES & RESOLUTION

- (3) Except as described below, and to Seller's knowledge for each Residential Lease:
- (a) the Residential Lease is in full force and effect;
  - (b) no tenant is in default or in violation of the Residential Lease;
  - (c) no tenant has prepaid any rent;
  - (d) no tenant is entitled to any offset against rent;
  - (e) there are no outstanding tenant claims against Seller involving the Property;
  - (f) there are no pending disputes with any tenant or prior tenant; and
  - (g) there are no other agreements, options, or rights outside the Lease between Landlord and Tenant regarding the Property.

Explain if any of the above is not accurate (attach additional sheets if necessary): \_\_\_\_\_

**DISCLOSURE & RESOLUTION OF LEASE ISSUES**

# NOTIFICATION OF LEASE ISSUES

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(4) Seller will promptly notify Buyer if Seller learns that any statement in Paragraph B(3) becomes untrue after the Effective Date. Seller shall cure the condition making the statement untrue within 7 days after providing the notice to Buyer. If the statement remains untrue beyond the 7-day period, Buyer may, as Buyer's sole remedy, terminate the contract within 5 days after the expiration of the 7-day period, by delivering notice to the Seller and the earnest money will be refunded to Buyer. If Buyer does not terminate the contract within the time required, Buyer waives the right to terminate. The Closing Date will be extended daily as necessary to afford the parties their rights and time to provide notices under this paragraph.

## SELLER MUST NOTIFY THE BUYER

If any statement becomes untrue after the effective date of the contract.

## SELLER MUST CURE THE ISSUES

Within 7 days after giving notice to the buyer.  
If the statement remains untrue beyond the 7 day period, the buyer may terminate the contract and get their earnest money back.

# STEPS

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## ASSUMPTION

Existing leases will be assigned to and assumed by the buyer at closing.

## SELLER

Once the property is under contract, the seller cannot execute or amend any leases without the buyer's written consent.

## DELIVERY

All residential leases shall be provided to buyer within 3 days of the effective date of contract. A second option period is created in this paragraph.

## TERMINATION

All residential leases will be terminated by closing. Consult an Attorney and review all leases before agreeing to this provision!

## ISSUES

Buyer shall be notified of all changes in status of leases and tenants. 7-day cure period & 5 days for buyer termination.

# SUMMARY

## THE TAKE-AWAY

### DISCLOSE

ALL EXISTING LEASES  
AND THEIR TERMS

### AGENTS

CANNOT INTERPRET  
THE TERMS OF A  
RESIDENTIAL LEASE

### RESIDENTIAL LEASES

CAN BE  
COMPLICATED!

### AGENTS

CANNOT ADVISE A CLIENT  
ABOUT THE PROVISIONS  
OF A LEASE

### BUYERS

NEED TO UNDERSTAND  
THE STATUS AND  
TERMS OF EXISTING  
LEASES

### AGENTS

CANNOT ENGAGE IN  
THE PRACTICE OF LAW

# **PROTECT YOUR CLIENTS PROTECT YOURSELF**

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KNOW AND UNDERSTAND THE RIGHT WAY TO HANDLE  
RESIDENTIAL LEASES IN A REAL ESTATE TRANSACTION