



# Multifamily Selling and Servicing Guide

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## TABLE OF CONTENTS

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Part I Section 302.02 Co-Tenant Borrowers .....	3
302.02A Tenancy-in-Common Agreement .....	3
302.02B Key Principal Execution of Guaranty .....	4
GLOSSARY .....	5



## 302.02 Co-Tenant Borrowers

### Requirements

You must ensure that any Co-Tenant Borrower meets these eligibility requirements:

- the Co-Tenant Borrower has no more than 10 co-tenants;
- no co-tenant is an individual;
- each co-tenant is a single-asset entity complying with [Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 302.01: Single-Asset Entity](#); and
- each co-tenant has jointly and severally executed the Loan Documents.

## 302.02A Tenancy-in-Common Agreement

### Requirements

You must ensure that a validly executed Tenancy-in-Common Agreement is in place prior to or at the Mortgage Loan closing.

You must review the agreement to ensure that:

- Each co-tenant is bound by the terms of the agreement.
- The Property has a manager of its day-to-day business and affairs, which can be
  - a single co-tenant (or the Key Principal of such co-tenant) known as the “co-tenant representative”, or
  - a validly-appointed property manager.
- Distributions to the co-tenant representative are subordinate to
  - all payments under any Mortgage Loan secured by a Lien on the Property, and
  - the terms and conditions of any such Mortgage Loan.

### Guidance

As you analyze the Tenancy-in-Common Agreement, consider the following questions. The term “co-tenant” also includes any Key Principal who has the rights of the co-tenant.

### **Representation**



- Have the Co-Tenant Borrowers given the co-tenant representative the power to deal with the Lender through the Tenancy-in-Common Agreement or an irrevocable power-of-attorney?
- Has each Co-Tenant Borrower waived its right to reside in the Property?

### **Buy outs**

- Does each Co-Tenant Borrower have buy out rights to any other co-tenant?
- Is each Co-Tenant Borrower financially able to buy out any other co-tenant?

### **Communication**

- Does each Co-Tenant Borrower have a name, address, telephone number, and percentage of ownership interest listed?
- Has each Co-Tenant Borrower agreed to promptly notify all other Co-Tenant Borrowers and you if their address or telephone number changes?
- Has a single Key Principal of the co-tenant representative agreed to receive any communication from you on behalf of all Co-Tenant Borrowers?

## **302.02B** Key Principal Execution of Guaranty

### Requirements

You must ensure that:

- each Co-Tenant Borrower names at least 1 Key Principal; and
- if a Guaranty is required, each Key Principal must become a Guarantor and execute either a Non-Recourse Guaranty or Payment Guaranty.



# Glossary

## B

**Borrower** Person who is the obligor under the Note.

**Synonyms**

- Borrowers
- Borrower's

## C

**Co-Tenant Borrower** Borrower consisting of tenants-in-common that own the Property in equal or unequal shares.

**Synonyms**

- Co-Tenant Borrowers

## G

**Guarantor** Key Principal or other Person who executes a Payment Guaranty, a Non-Recourse Guaranty, or any other guaranty in connection with the Mortgage Loan.

**Synonyms**

- Guarantors

**Guaranty** Payment Guaranty, Non-Recourse Guaranty, or other guaranty by a Guarantor for the Mortgage Loan.

## K

**Key Principal** Person(s) who control and/or manage the Borrower or the Property, are critical to the successful operation and management of the Borrower and the Property, and who may be required to provide a Guaranty.

**Synonyms**

- Key Principals

## L



**Lender** Person approved by Fannie Mae to sell or service Mortgage Loans.

**Synonyms**

- Lenders
- Lender's

**Lien** Lien, mortgage, bond interest, pledge, security interest, charge, or encumbrance of any kind.

**Synonyms**

- Liens

**Loan Documents** All documents evidencing, securing, or guaranteeing the debt obligation executed for a Mortgage Loan and approved by Fannie Mae.

**Synonyms**

- Loan Document
- Mortgage Loan Document
- Mortgage Loan Documents

## M

**Mortgage Loan** Mortgage debt obligation evidenced, or when made will be evidenced, by the Loan Documents or a mortgage debt obligation with a Fannie Mae credit enhancement.

**Synonyms**

- Mortgage Loans

## N

**Non-Recourse Guaranty** Guaranty executed by a Key Principal on Form 4501 series or [Form 6015 series](#), or approved by Fannie Mae.

**Synonyms**

- Guaranty of Non-Recourse Obligations

## P



## Payment Guaranty

Guaranty executed by a Key Principal on Form 4502 series or [Form 6020 series](#), or approved by Fannie Mae.

## Property

Multifamily residential property securing the Mortgage Loan and including the land (or Leasehold interest in land), Improvements, and personal property (as defined in the Uniform Commercial Code).

### **Synonyms**

- Properties
- Property's