



Fannie Mae®

Multifamily Selling and Servicing Guide

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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; and
- 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?



Glossary

C

Co-Tenant Borrower	Borrower consisting of tenants-in-common that own the Property in equal or unequal shares.
	Synonyms <ul style="list-style-type: none">• Co-Tenant Borrowers

K

Key Principal	Person who <ul style="list-style-type: none">• controls and/or manages the Borrower or the Property,• is critical to the successful operation and management of the Borrower and the Property, and/or• may be required to provide a Guaranty.
	Synonyms <ul style="list-style-type: none">• Key Principals• Key Principal's

L

Lender	Person Fannie Mae approved to sell or service Mortgage Loans.
	Synonyms <ul style="list-style-type: none">• Lenders• Lender's

Lien	Lien, mortgage, bond interest, pledge, security interest, charge, or encumbrance of any kind.
	Synonyms <ul style="list-style-type: none">• Liens

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
- Mortgage Loan's

P

Property

Multifamily residential real estate securing the Mortgage Loan, including the

- fee simple or Leasehold interest,
- Improvements, and
- personal property (per the Uniform Commercial Code).

Synonyms

- Properties
- Property's