

# Buying a Property with an Existing Tenant



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The attraction of buying a property with an existing tenant is great; the agents will assure you that there will be a seamless transfer between the seller and you on completion.

As lawyers, we are only required to look at the existing tenancy agreement; our searches and enquiries do not extend to such matters as:

- Did the tenants have full credit checks and references from a previous landlord at the beginning of the tenancy
- Whether the tenants have diplomatic immunity/are they in receipt of benefits
- Do they pay regularly; have they ever missed a payment; when do the agents pass on the moneys received
- When did their tenancy commence (did they have any form of agreement before the current agreement)
- If leasehold – does the tenancy agreement incorporate the rules and regulations of the lease?
- If leasehold – are you permitted to sub-let under the terms of the lease; does the landlord need to be informed; is there a fee charged by the landlord for this service?
- Has the inventory been checked – is it correct? Does it accord with the fixtures and fittings list provided by the seller?
- Where is the deposit held – will I be able to take this over?
- Should I employ the existing agents? What is their percentage of the rent?

Make sure that you meet the tenants and make your own mind up about them. **It is your responsibility to ensure that these checks have been carried out.**

If you are buying the property subject to an existing tenant, you should ensure that the legal requirements have been complied with. In addition, the Seller will hand over on completion, a “Rent Authority Letter” confirming that the Tenant should pay future rent to you. We would advise you to write to the tenant to notify them of your purchase and make arrangements for them to transfer the rental payment directly to you.

Problems that have been experienced:

- 1** The client took over the existing tenants and found out that they had occupied for over ten years and were in fact sitting tenants. The new owner tried to evict them and could not (thousands spent on lawyers fees in the process!)
- 2** The client took over the existing tenants when notice had been served to terminate the tenancy. Completion was due to take place at the termination of the tenancy; completion did not take place on time as the tenants would not vacate. The client was then (due to illness) unable to obtain a new mortgage – he failed to complete and lost £12,700 being his deposit.

## Still Want to Go Ahead?

The agents may suggest that with the agreement of the tenant you all sign a new tenancy agreement; this is not necessary and you will be charged by the agents for this service.

You must ensure that you/or the agents serve notice on completion that you are the new landlord and advise the tenants where payment should be made.

Unless you are completing on a payment of rent day; the rent paid to the existing owner should be apportioned (split pro rata) between the existing owner and you. Either the agents or the lawyer can do this for you.

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