# Tenants in Common (TICs)/Fractional Ownership
# Q & A

**Q: WHAT IS A TENANCY IN COMMON (TIC)?**
**A:** Tenancy in Common is a form of joint ownership of real property. All Tenants in Common are named on the Title Deed and each owns a percentage interest in the property as a whole enabling each owner rights to the entire piece of property. Any type of property can be held as Tenants in Common whether or not it is divided into separate living units.

**Q: HOW DOES FRACTIONAL TIC OWNERSHIP DIFFER FROM STANDARD TIC VESTING?**
**A.** Fractional TIC project is divided into individual living units. Buyers arrange for individual financing rather than a group loan Vesting is noted as a percentage interest in the property.

**Q: HOW DOES FRACTIONAL TIC OWNERSHIP COMPARE TO OWNING A CONDOMINIUM?**
**A:** TIC owners' own percentages in an undivided property rather than particular units or apartments and their deeds show only their ownership percentages.

**Q: HOW DOES FRACTIONAL TIC OWNERSHIP COMPARE TO OWNING STOCK IN A COOPERATIVE ("CO-OP")?**
**A:** In a "stock cooperative" or "co-op", a corporation or other legal entity owns the property. The owners of the entity each own shares of the entity, which are personal property, not real property. The owners each have the right to use a specific apartment, as in a TIC.

**Q: WHY FRACTIONAL TIC RATHER THAN THE CONDOMINIUM STRUCTURE?**
**A:** Because the TIC process is less complex than the condominium process, it is, therefore, less expensive for the seller/developer. TICs with five or more units do require approval of the CA DRE. The process can happen more quickly. The seller can, therefore, offer the property at a lower price when he offers it for sale.

**Q: WHAT IS A FRACTIONAL TIC AGREEMENT?**
**A:** Similar to, but not as complex as, the CC&Rs that govern a condominium development, The TIC agreement is a written contract/agreement signed by ALL co-owners. Most TIC Agreements are kept "in reserve" by the owners and only used in the event that normal relations among group members break down. While it is useful to have owners' rights and duties well defined, relying on the agreement to dictate response to actual events is often counterproductive. The give and take of typical ownership arrangements requires flexibility and good will.

**Q: WHAT SHOULD BE INCLUDED IN THE TIC AGREEMENT?**
**A**: Each Agreement will vary, but certain common provisions almost always exist.
Among them are:

- Provisions providing for non-judicial resolution of any disputes, often using mediation and private arbitration and avoiding the high expense of legal battles in Court;
- Appropriate separation of the property into "individual" and "group" components relating to usage rights and maintenance responsibilities;
- Description of the owners' financial obligations including initial deposits, reserve accounts, taxes, common area maintenance and other expenses; nomination and method of selecting professionals to represent the owners (lawyers, accountants, etc.);
- Formulas for determining each owner's monthly payment in advance and periodically adjusting the amount;
- Management of the property, including accounts receivable, accounts payable, regular reporting maintenance and janitorial;
- Rules governing usage of the property by the owners (e.g. pets, noise, floor covering) including enforcement provisions;
- Meeting and decision making procedures;
- Provisions defining when a default has occurred and describing remedies;
- Policy in the event of death or bankruptcy of an owner;
- Sale of interests, group approval of prospective purchasers, and rights of first refusal; and
- Provisions to anticipate and remedy the effect of alterations in the law.

**Q: WHO HAS THE POWER TO MAKE DECISIONS IN A TIC AGREEMENT?**

**A:** In most TIC Agreements, each owner has one vote. Usually, a majority makes routine decisions. Major items such as expensive non-emergency repairs or improvements generally require unanimity or a supermajority (e.g. 75% approval.)

**Q: HOW ARE DAY-TO-DAY COSTS HANDLED?**

**A:** Building expenses are divided into "individual expenses" and "group expenses". Individual expenses include maintenance and improvements to unit interiors, personal property insurance and separately metered utilities. These expenses are paid directly by the individual owners. Group expenses include building insurance, property taxes, maintenance and improvements to common areas, and shared utilities. Group expenses are paid through a group bank account using a monthly assessment system. Under this system, each owner makes a single monthly payment to the group account. The monthly payment is based upon the total of the owner's share of each of the anticipated group expenses. To add predictability and protect against default, even semi-annual and annual expenses, like property taxes and insurance, should be included in the owners' monthly payments. Many groups elect to have a professional management company to provide these services .and some TIC agreements mandate outside management

**Q: HOW IS THE PURCHASE OF A FRACTIONAL TIC FINANCED?**

**A:** Several lenders currently offer TIC financing under which each co-owner has his/her own loan. Individual tenancy in common loans are secured by the borrower's percentage share in the property, meaning that the borrower's mortgage default does not impact the other co-owners. Another option is a group loan. Under a group loan arrangement, the TIC agreement would specify the percentage of each loan that was owed by each co-owner. Each owner would then pay their portion of the loan into the group monthly dues and the group as a whole would make the payment to the lender. Loans available are comparable in rate to those tailored to investment properties.

**Q: HOW ARE PROPERTY TAXES HANDLED IN A FRACTIONAL TIC?**

**A:** Since the TIC property is one legal property of record, the owners will receive one property tax bill, as opposed to individual tax bills for each owner. Each owner's share is usually based on the purchase price of his/her interest. When the property tax increases due to a resale of a share, the new buyer will be expected to pay the increased amount. If property taxes increase due to improvements or reassessments, the increase should be assumed by each owner according to the percentages derived from the previous purchase prices.

**Q: HOW ARE TENANCY IN COMMON OWNERSHIP PERCENTAGES DETERMINED?**

**A:** The answer to this question varies from TIC to TIC. In some groups, each owner holds an equal share. In others the shares are determined by the relative value or square footage of the assigned areas of the property. In this particular project, the ownership percentages are based on the square footage of each unit. The ownership percentages are often used to allocate shared expenses, such as insurance and common area maintenance.

**Q: HOW DOES A FRACTIONAL TIC OWNER SELL HIS/HER OWN INTEREST?**

**A:** By law, TIC interests can be sold at any time for any price the market will bear. Most TIC agreements will require that the current owners have the first right of refusal when a unit is being sold. The TIC Agreement will often provide that the group approves of the qualifications of the purchaser. This is important since otherwise a new buyer could come in who could entirely disrupt the smooth operation of the TIC.

**Q: DOES A TIC PROVIDE THE SAME TAX BENEFITS AS OTHER RESIDENTIAL REAL ESTATE?**

**A:** The typical tax benefits available to property owners are available to TIC owners. Owners who reside in the property can deduct their mortgage interest and property taxes, and often may avoid capital gains tax on resale. Owner who rent out their premises can declare their income and expenses, including depreciation, and may undertake a tax-deferred exchange.