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Take steps to buy smart

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Inside Bay Area

BUYING a duplex can be a smart move, provided certain steps are taken to make the transaction a smooth one.

Keep in mind that owning a duplex is not the same thing as owning a house or condominium. Two people who own a duplex together are jointly owning a single property parcel.

That's why experts recommend property partners get what's known as a tenancy in common, which sets out rules for an owner-occupied property involving two or more units. TICs can apply to a duplex or an apartment building where people have banded together to buy the units and live in them. While TICs have been around in San Francisco for many years, they are starting to show up in the East Bay and the Peninsula as people turn to buying multi-unit dwellings as a way to get into the housing market.

"It's becoming more and more popular mainly because of the (lack of) affordable housing," said David Park, a sales manager with San Francisco-based Integrated Mortgage Capital.

"A tenancy in common is a way for two unrelated people to hold title," said Zachary Griffin, a senior loan consultant with Oakland-based LaSalle Financial Services, a mortgage lending affiliate of Residential Pacific Mortgage.

Lending guidelines are typically the same for owner-occupied duplexes as they are for loans made for single-family houses, he said.

A TIC makes it possible for duplex partners to have a written agreement that spells out specific rules. Such terms should cover things like what happens if one person stops making mortgage payments, slacks off on maintenance or has parties that are too loud, experts advise.

"It's a good idea for owners to have an arrangement between them in writing," said Andy Sirkin, a San Francisco attorney who helps people draft TICs. "People change."

A TIC also determines what percentage of the property's value each side owns. That's because one of the units can have more value if it has a better view or some other attribute the other unit doesn't.

"In a tenancy in common, (ownership) doesn't have to be equal," Sirkin said.

A TIC is different than a joint tenancy agreement. Joint tenancy would be if two unrelated people buy a house together and each wants the other to inherit the house after one of them dies.

With a TIC agreement, if an owner dies, the property goes to the deceased person's designated heir or next of kin.

"So partners buying property together will likely buy as tenants in common to protect the rights of their respective heirs," Linda Quinn, a broker associate with Keller Williams Realty in San Francisco, wrote in an e-mail.

Many lenders provide blanket TIC loans to help people buy multi-unit properties. A blanket TIC is essentially a group loan, which means a TIC agreement should cover things like what would happen if one person stops paying the mortgage.

To that end, a TIC agreement can require both duplex buyers to contribute to a "default" fund, Park said.

It would be funded by contributions from both buyers with the understanding that one partner could draw from it to pay the mortgage for at least six months if the other stops making payments, he said.

"If someone gets in an accident and can't make the payment, that default fund is in place," Park said.

Things can get complicated if just one person wants to sell his or her duplex unit.

"There are drawbacks to buying with a partner," Griffin said. "It's a lot more difficult than selling a condo."

Sometimes bringing in a new buyer requires that the original loan be refinanced since a new person would be on the title.

"It's also harder to resell because you usually need the approval of the other owner (who) has to approve the new buyer," wrote Quinn.

But Park said some TIC blanket loans let the new buyer take over the loan payment without having to refinance.

Integrated Mortgage Capital and Novato-based Circle Bank recently have started offering individual TIC loans. Unlike a blanket TIC loan, an individual TIC loan provides each duplex buyer with a separate mortgage. The upshot is that it is easier for someone with an individual TIC loan to sell his or her interest.

"You aren't at the mercy of the other person," said DeAnna Baldrige, president of Associated Real Property Brokers in Oakland.