

The Lessor is Selling the Property

As a tenant you have rights and responsibilities under the *Residential Tenancies Act 1987* (the Act). This fact sheet incorporates the changes made to the Act, which came into effect on 1 July 2013. Please note that while changes were made to the Act effective 1 July 2013, some of the old laws may still apply to you. If, for example, you entered into a lease prior to 1 July 2013, the old laws may still be valid. Accordingly we strongly encourage you to get appropriate legal/tenancy advice from your local tenancy service concerning the application of the new laws.

A lessor can sell their property during your tenancy even if you have a fixed term tenancy agreement.

VIEWING AND INSPECTIONS

The lessor has the right to show the premises to prospective buyers in certain circumstances. In those circumstances, you have a responsibility to allow them entry.

The lessor must also ensure they do not interfere with the tenant's right to 'quiet enjoyment' of their property when inspections are conducted.

For the purpose of showing the property to prospective buyers, the lessor can enter the property:

- At any reasonable time,
- On a reasonable number of occasions,
- After giving the tenant reasonable notice in writing.

Reasonable time means:

- 8am – 6pm on a weekday
- 9am – 5pm on a Saturday
- At any other time agreed between the lessor and each tenant.

Reasonable notice/reasonable number of occasions

The Act does not define reasonable notice for showing prospective purchasers through the property. What period of notice is reasonable depends on the circumstances. Similarly, the Act does not define what a reasonable number of occasions is. It depends on the circumstances.

Negotiating about inspections

If the lessor intends to show the property to prospective buyers, you may wish to negotiate with

*In the
Residential
Tenancies Act
the **landlord** is
referred to as
the **lessor**.*

the lessor about when and how often entry to the property is required. That way, you may be able to agree about when and how inspections will take place, without repeatedly arguing about what is 'reasonable' in the circumstances.

If you reach an agreement, you should get it in writing and make sure that it is signed by yourself and the lessor.

Examples of some agreements:

- The lessor will only show the property if they have made a convenient appointment time with the tenant.
- The property will be open for inspection at an agreed time each week (or fortnight, month etc.), up until an agreed date.
- A series of dates and times for inspections for an agreed period (e.g. two months) will be negotiated before the commencement of each of those periods.
- The tenant will pay reduced rent as compensation for the inconvenience caused by frequent inspections.

If the lessor is not giving you enough written notice or coming to the property too often, that may be considered unreasonable.

If you think the lessor is being unreasonable, you may wish to collect evidence about what is happening. For example, you could keep a diary of details such as the number of times that people are shown through the property and how long they stay each time.

ADVERTISING

NOTE: You are not obliged to go to any special effort or expense (e.g. hiring professional cleaners or gardeners) to make the property more attractive to prospective buyers. If this is what the lessor wants, it's up to them to provide it.

Your obligation under the Act is simply to keep the property in a reasonable state of cleanliness.

As part of the sales process, your lessor may want to have the interior photographed for their sales board and internet advertising. If the lessor wants to take photographs for advertising the property for sale you should try to negotiate an agreement about what will be photographed and how the photographs will be used.

If you are worried that the photographs will put your possessions at risk of theft, you should remove any valuable items before the photos are taken. Photographs should not include any identifying features. If you are concerned about your safety if the photos reveal where you are living, then you should seek further advice.

DO I HAVE TO MOVE OUT?

Just because the owner is selling the property, it does not necessarily mean you have to move out of the property. Your tenancy agreement must be terminated in the proper way.

FIXED TERM AGREEMENT

If you have a fixed term agreement, you cannot be required to vacate before the end of the fixed term.

If the property is sold while you are living there, the new owner purchases the property subject to your tenancy and takes over the rights and responsibilities of your previous lessor.

Your current agreement and the existing terms and conditions continue until the end of your fixed term agreement.

If the property is put on the market and you want to vacate, or the owner wants to sell the property vacant, you may come to a mutual agreement about the termination of the tenancy. This may include compensation for the other party's inconvenience. Get any agreement in writing. See the 'Break Lease' fact sheet for more information.

PERIODIC AGREEMENT

If you have a periodic agreement, and the lessor enters into a contract for the sale of the property that requires them to provide vacant possession of the premises to the purchasers, the lessor can give you a 30-day termination notice.

If the lessor does not take any steps to terminate your periodic agreement before 'settlement' (the day when the purchaser becomes the new owner of the property), the property can be sold subject to your periodic agreement. That would mean that your periodic agreement would continue with the new owner.

Either party can still give a "no grounds" notice of termination at any time in a periodic tenancy. You can end a periodic tenancy by giving at least **21 days' written notice** to the lessor, the lessor can end the tenancy by giving you at least **60 days' written notice**. See the 'Ending a Tenancy by Giving Notice' and 'Lessor is Ending Your Tenancy' fact sheets for more information.

If you have a periodic tenancy and want to stay after the property has been sold, you may try to negotiate an agreement with the purchaser to stay on a periodic tenancy or sign a new fixed term agreement with them. The purchaser does not have to agree to this.

Disclaimer

This fact sheet only contains general information. This fact sheet is not legal advice and should not be relied on as a substitute for legal advice. You may wish to seek advice from a lawyer regarding your own particular circumstances. We are not responsible for any consequences arising from your use of, or reliance on, the information contained in this fact sheet.

Further information about our disclaimer and your use of this fact sheet can be found here: www.circlegreen.org.au/disclaimer/

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FURTHER HELP – TENANTS' ADVICE AND ADVOCACY

Circle Green Community Legal

(08) 6148 3636

www.circlegreen.org.au

Department of Mines, Industry Regulation and Safety

www.dmirs.wa.gov.au, **Consumer Protection** for consumer and tenancy related matters
commerce.wa.gov.au/consumer-protection | 1300 304 054

METROPOLITAN COMMUNITY LEGAL CENTRES

Fremantle CLC

(08) 9432 9790

www.fremantle.wa.gov.au/fclc

Gosnells CLC

(08) 9398 1455

www.gosclc.com.au

Midland Information Debt & Legal Advocacy Service

(08) 9250 2123

www.midlas.org.au

Northern Suburbs CLC (Joondalup)

(08) 9301 4413

www.nsclegal.org.au

Northern Suburbs CLC (Mirrabooka)

(08) 9440 1663

www.nsclegal.org.au

Southern Communities Advocacy & Legal Education Services (SCALES)

(08) 9550 0400

murdoch.edu.au/School-of-Law/Clinical-Legal-Education-SCALES

Sussex Street CLS

(08) 6253 9500

www.sscls.asn.au

Welfare Rights & Advocacy Service

(08) 9328 1751

www.wraswa.org.au

REGIONAL COMMUNITY LEGAL CENTRES

Albany CLC

(08) 9842 8566

www.albanyclc.com.au

Goldfields CLC

(08) 9021 1888 | 1300 139 188 (if outside Kalgoorlie-Boulder)

www.gclc.com.au

Kimberley Community Legal Services :

www.kcls.org.au

- **Kununurra**
(08) 9169 3100 | 1800 686 020 (freecall)
- **Broome**
(08) 9192 5177

Peel CLS

(08) 9581 4511

www.peelcls.com.au

Pilbara Community Legal Services:

www.pcls.net.au

- **Karratha**
(08) 9185 5899
- **Newman**
(08) 9140 1613
- **Roebourne**
(08) 9185 5899
- **South Hedland**
(08) 9140 1613

Regional Alliance West

(08) 9938 0600

www.raw.org.au

South West CLC

(08) 9791 3206 | 1800 999 727 (freecall)

www.swclc.org.au

Wheatbelt CLC

(08) 9622 5200

www.wheatbeltclc.com.au