

The landlord is selling

Showing prospective buyers through the premises

The landlord has a right to show the property to prospective buyers, and tenants have a duty to allow them entry. However this must be balanced against a tenant's right to 'quiet enjoyment' of their rental property.

Under the *Residential Tenancies Act 1997*, when the landlord or agent wants to enter your premises, they must:

- > give you at least 24 hours' written notice, stating the reason they want to visit
- > deliver the notice by mail or give it to you in person between the hours of 8am and 6pm
- > only visit between 8am and 6pm and not on public holidays (unless you have agreed otherwise within the last 7 days)
- > not stay longer than necessary

➡ If the notice is being sent by regular mail they must allow one business day for delivery. If the notice is sent by registered mail they must allow two business days for delivery.

The landlord, agent or a person accompanying them may also enter the premises if you have agreed to the entry within the last 7 days.

If the landlord gives proper notice, they are allowed to enter the property whether or not you agree, and whether or not you will be home at the time. If you haven't received proper notice, you don't have to let them or prospective buyers in.

➡ It is an offence for the landlord or agent to enter the premises without meeting the entry requirements, unless they have a reasonable excuse. See the **Complaints about landlords and real estate agents** fact sheet for more information.

Photographs

As part of the process of showing the property to a prospective buyer, agents usually want to have the interior photographed for the sale board and internet advertising. You can insist that the photographer be accompanied by the landlord or real estate agent. See the **Privacy** fact sheet for more information.

If you are concerned that the photos will put your possessions at risk of theft you should remove any valuable items before the photos are taken.

If you don't want photographs taken, start by writing to the agent. If they insist, you can apply to the Victorian Civil and Administrative Tribunal for a Restraining Order. The Tribunal's decision will depend on the circumstances. For example, if the photos will put you at risk because you have fled from domestic violence, you will have a better chance of getting the Restraining Order.

If you are concerned that photos will breach your privacy because they will clearly identify you or a family member, contact the Federal Privacy Commissioner on ☎ 1300 363 992 for advice.

Negotiating an agreement

You may be able to negotiate an agreement with the landlord or agent that strikes a balance between your right to quiet enjoyment and their right to show the premises to prospective buyers. If you reach an agreement, you should get it in writing and make sure that it's signed by yourself and the landlord or agent.

An agreement could include conditions such as:

- > the landlord or agent will only show the property to a prospective buyer if they have made a convenient appointment time with the tenant
- > the property will be open for inspection at an agreed time each week, up until the auction date or an agreed date
- > the tenant will pay reduced rent as compensation for the inconvenience caused by the inspections

Property inspections

If the landlord or agent refuse to negotiate a rent reduction to compensate you for the inconvenience, keep a diary of their activities in case you are entitled to claim

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compensation later. You should write down the details of any inconvenience that you suffer, such as the number of times that people are shown through the property and how long they stay each time. To successfully claim compensation, the interference with your quiet enjoyment has to be substantial.

If the landlord or agent are not following the rules about entering the property, or the number of visits they are making is disturbing your quiet enjoyment, you can either send them a Breach of Duty Notice and claim compensation or compliance with the rules, or you can apply to the Victorian Civil and Administrative Tribunal for a Restraining Order. See the **Privacy** fact sheet for more information.

You can also apply to the Tribunal for compensation for inconvenience, loss of quiet enjoyment or any other losses you have suffered as a result of the inspections. Also, you can apply for compensation if any of your possessions were damaged due to the landlord or agent's lack of supervision. See the **Claiming compensation** fact sheet for more information.

➔ You are not obliged to go to any special effort or expense (eg buying flowers or hiring professional cleaners) to make the property more attractive to prospective buyers. If this is what the landlord wants, it's up to them to provide it. Your obligation under the *Residential Tenancies Act 1997* is simply to keep the premises in 'a reasonably clean condition'.

Moving out when the owner sells

Just because the owner is selling, it doesn't mean that you have to move out of the property. If the property is sold while you are still living there, the new owner purchases the property subject to your tenancy and takes over the rights and responsibilities of your landlord. This means that if you have a current fixed-term lease, the existing terms and conditions still apply (including the amount of rent that you pay, how and when you pay it, and the expiry date of the fixed term).

If your landlord wants you to leave, they must give you a 60-day Notice to Vacate, stating the reason (ie the property is being or has been sold with vacant possession). The landlord must give you the notice within 14 days of signing the contract of sale, or if the contract of sale has any special conditions attached,

a Notice to Vacate may be served within 14 days of the last of these conditions being met. (If you are on a fixed-term lease, the last day of the notice cannot be before the expiry date of your fixed term.)

If the new owner wants you to move out before the end of your fixed term, you should try to negotiate an agreement that compensates you for the inconvenience. If you reach an agreement, get it in writing and make sure that it's signed by yourself and the new owner or agent.

➔ If you are on a fixed-term agreement and you want to move out early because the property is being or has been sold, you may be able to end the tenancy early by 'mutual consent' (ie agreement) with the landlord. Get the agreement in writing, signed by the landlord or agent, or you may have to pay the costs of breaking the lease. For more information see the **Breaking a lease** fact sheet.

If you are on a periodic (month to month) lease and you are given a 60-day Notice to Vacate, you can move out before the 60 days are up. However you must give the landlord or new owner 14 days' Notice of Intention to Vacate.

See the **Notice to Vacate** and **Eviction** fact sheets for more information.

Bonds

When the property is sold, both the new owner and the previous owner must notify the Residential Tenancies Bond Authority that the property has changed hands. Your bond remains with the Bond Authority until the end of the tenancy, when the new landlord can either make a claim against it or agree to have it paid out to you. See the **Bonds** fact sheet for more information.

For more information phone the Tenants Union Advice Line on ☎ (03) 9416 2577.