

# KEEPING CURRENT

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## Multi-Residential Lending: Navigating Tenant Protection Laws and Recent Case Developments

By Zev Zlotnick

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Lending on multi-residential properties in Ontario presents unique challenges that go beyond the physical asset. A critical factor for lenders is the impact of tenant protection laws, primarily governed by the *Residential Tenancies Act*, 2006 ("**RTA**"), which imposes significant rights and obligations on landlords and tenants. Unlike commercial lending, lenders who take possession of a multi-residential property may find themselves stepping into the role of a landlord, with corresponding legal duties and liabilities.

A recent case highlighting these issues is *Toronto Standard Condominium Corp. No. 2065 v. Sinclair*, where the court clarified that a lender exercising control over a residential rental property can be deemed a landlord under the RTA. This means that, upon enforcement, the lender must comply with tenant protection rules including rent collection, maintenance obligations, and restrictions on eviction.

Non-compliance can lead to regulatory penalties and complicate the lender's ability to quickly realize on their security.

The pandemic intensified these challenges, as temporary eviction moratoriums and rent relief programs added layers of complexity. Lenders must ensure their borrowers remain compliant with evolving tenant protection measures, including proper notice requirements and adherence to rent freeze or abatement policies. This risk extends beyond loan default, tenant issues can arise even during the loan term and affect the property's cash flow and valuation.

Loan documentation should include robust covenants requiring borrowers to certify compliance with tenant laws and to maintain adequate reserves to cover potential arrears or

unexpected tenant expenses. Proactive monitoring of borrower tenant management practices can also mitigate risk.

Additionally, municipal regulations such as licensing for multi-residential buildings, zoning bylaws, and property standards enforcement can impact the asset's operating environment. Lenders should conduct thorough due diligence on these regulatory frameworks during underwriting and seek periodic updates throughout the loan term.

In summary, successful multi-residential lending in Ontario demands a comprehensive understanding of tenant protection laws and the practical implications of becoming a landlord by enforcement. Lenders who integrate legal compliance checks, tenant risk assessments, and clear contractual protections will better safeguard their interests and ensure smoother enforcement processes if required.

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If you are in need of legal advice, please do not hesitate to contact **Zev Zlotnick**, at 416.865.6601 or [zzlotnick@grllp.com](mailto:zzlotnick@grllp.com).

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