

Kimball, Tirey & St. John LLP

Estoppel Certificates

Jamie Sternberg, Esq.

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What Are Estoppel Certificates?

When a leased property is sold or refinanced, the buyer or lender will investigate the lease status.

The buyer or lender will request lease information from the seller or borrower. A cautious buyer or lender may also want to verify that:

- the information provided by the seller/borrower is correct, and
- there are no disputes in the landlord/tenant relationship.

An estoppel certificate provides this verification. An estoppel certificate is a statement signed by a tenant that gives information about the lease and its status.

Different Estoppel Certificate Forms

There are several commonly used estoppel certificate forms. The California Association of Realtors, the California Apartment Association, and the American Industrial Real Estate Association all have form estoppel certificates available. Many lenders require their own specific estoppel certificate forms.

Contents of Estoppel Certificates

Estoppel certificate forms will identify primary lease terms such as:

- landlord name
- tenant name
- property address
- lease start and end dates
- monthly rent
- security deposit amount.

Estoppel certificates will also typically contain representations and warranties from the tenant that the rental agreement/lease is in full force and effect, that the tenant hasn't paid rent more than 30 days in advance, that the tenant has no claims or offsets against the landlord, and that there are not disputes between the landlord and tenant.

Estoppel Certificates Are Binding on Tenants

Tenants will be bound by the information they provide in an estoppel certificate. For example, if a tenant specifies a \$1,000 security deposit in an estoppel certificate, and several years later claims a \$5,000 security deposit was paid, the estoppel certificate statement will be binding on the tenant. Estoppel certificates provide protection to buyers and lenders.

Helpful Suggestions

Signed Estoppel Certificates Should Have No Blanks. Many estoppel certificates have blanks to be completed by the tenant. Each blank should be completed or the words "none" or "not

applicable” inserted as appropriate. To avoid problems, the landlord, buyer or lender should ensure that all blanks are filled in before the estoppel certificate is signed.

Landlords Should Have Provisions in their Leases/Rental Agreements Requiring Tenants to Provide Estoppel Certificates. Proactive landlords include provisions in their lease/rental agreement requiring their tenant to sign and return an estoppel certificate within a short period of time (e.g. 10 days).

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