

# LIFE LEASES

## Legal Perspectives

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**Added experience. Added clarity. Added value.**



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# LIFE LEASE - WHAT IS IT?

## Lease:

- Interest in land
- Tenant has exclusive possession of land or building
- Landlord has “reversionary interest” – regains possession @ end of term

## Life Lease: lease with term = life of tenant

- similar to life estate
- origins in English feudal law

# LIFE LEASE: FUNDAMENTAL ELEMENTS

As with any lease:

- Land - precisely described
- Parties - landlord and tenant
- Term – months/years
- Rent – periodic or prepaid or a combination

Registration in Land Title Office

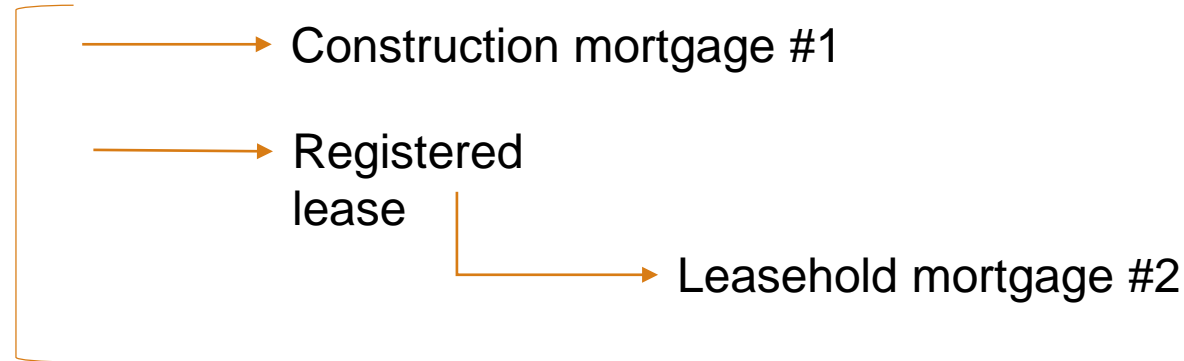
- Priority
- Protection from claims against landlord
- Leasehold interest can be mortgaged

# UNIQUE ELEMENT OF LIFE LEASE: TERM

- Term = shorter of XX years or life of the tenant
- If < 20 years, Residential Tenancy Act applies – otherwise not
- If > 30 years, Property Transfer Tax applies
- Longer term may be required for mortgage security

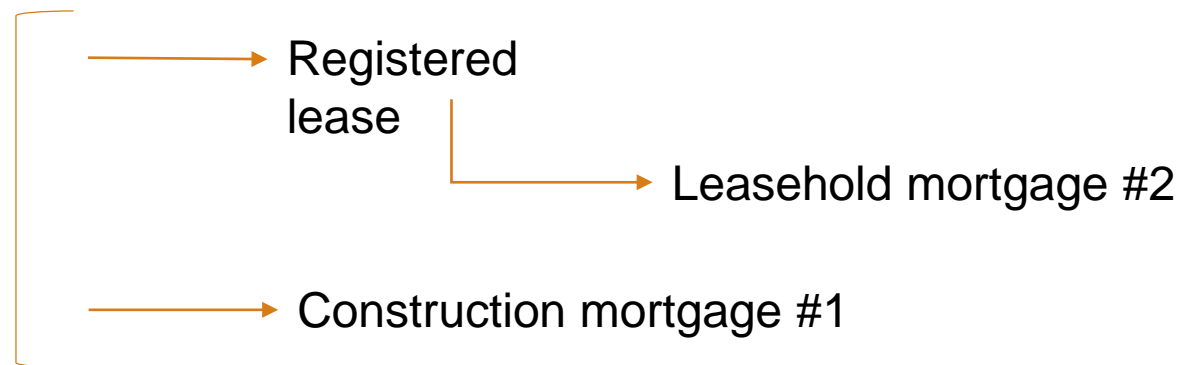
# Registered leases and mortgages

Title without  
Priority  
agreement



Mortgage #1 has priority over Lease and Mortgage #2

Effect of  
Registered  
Priority  
agreement



Lease and Mortgage #2 have priority over Mortgage #1

# LIFE LEASE: REGULATION

## Real Estate Development Marketing Act (REDMA)

- Regulates marketing of “development units” in BC

## Real Estate Services Act (RESA)

- Regulates provision of “real estate services” in BC

# REDMA: BASIC FRAMEWORK

Regulates marketing of development units in B.C.

Applies to marketing “leasehold unit”

- unit in a “residential leasehold complex”
- “residential leasehold complex” - capable of being used for residential leasehold purposes

Short term leases/tenancies:

- Exception (REDMA Regulation) – lease for term of 3 years or less

# REDMA: RESTRICTIONS

## No marketing without:

- filing disclosure statement (and providing to each purchaser)
- obtaining building permit
- obtaining construction financing

## Marketing without permits and construction financing:

- 9 months only
- any agreements can be cancelled if no permits and financing @ 12 months

## Deposits

- Deposit = any money paid before purchaser acquires title
- must be held in trust by realtor or lawyer until completion



# REDMA: DISCLOSURE STATEMENTS

- “Plainly disclose all material facts”
- signed by every director of developer
- directors liable for misrepresentations
  
- Form and content prescribed in provincial policy statements
- Leasehold policy statement:  
[www.fic.gov.bc.ca/pdf/real\\_estate/PolicyStatement9\\_Oct2014.pdf](http://www.fic.gov.bc.ca/pdf/real_estate/PolicyStatement9_Oct2014.pdf)

# REDMA: LONG ARM OF THE LAW

"**market**" means

- (a) sell or lease
- (b) offer to sell or lease
- (c) any activity likely to lead to a sale or lease;

Consequences of being offside REDMA:

- Purchasers can rescind contracts
- Cease marketing order
- Administrative penalties up to \$100,000
- Prosecution
- **In short: project is dead!**

# REAL ESTATE SERVICES ACT

Governs provision of real estate services on fee for service basis

Only licensed brokers can provide “trading services”

- finding buyers
- showing units
- negotiating price or terms

Possible exceptions:

- employees of developer marketing unit under REDMA
- directors of developer – not being paid a fee
- consult your lawyer!