



Life Leases



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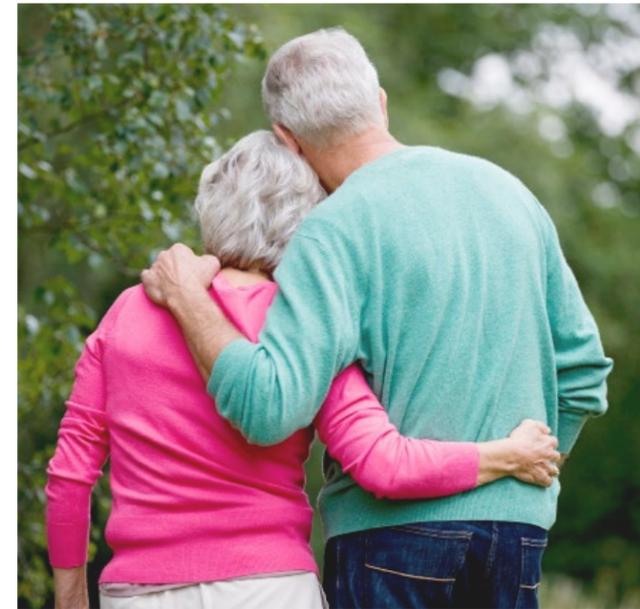


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Life Leases

When you enter into a life lease agreement (or “life lease”), you buy the right to occupy a unit in a particular development. Usually, life leases last for life, or a fixed term (for example, 50 years), or until you are no longer capable of living independently in the unit. This type of agreement is an alternative housing option that lies between renting and owning a residential premises.

This publication will help you develop a basic understanding of life leases.

What laws in Alberta relate to life leases?

In Alberta, life leases are relatively new. While some provinces in Canada have laws that define the rights and responsibilities of a life leaseholder, Alberta does not. As a result, if you enter into a life lease agreement, you will not have the same protection in law that renters in typical rental agreements or owners of condominiums have.

For example, life leases are not considered rental properties in Alberta so the *Residential Tenancies Act* does not apply to them.

However, some laws that apply to other forms of housing may apply to life lease housing, such as contract law, common law, human rights, *Minimum Housing and Health Standards*, and municipal bylaws.

Tip: Before you agree to a life lease, you should make sure you are familiar with the laws which will apply to you and consult a lawyer for legal advice.

Are there different types of life leases?

Yes, there are many different types of life lease agreements, but there are some common elements. In most cases in Alberta, you would pay an amount up front (an “entrance fee”) usually followed by monthly payments (sometimes called “rental” payments). The biggest difference among life leases is what happens when the life lease is over. For example, depending on the terms of the life lease, you may receive money back from your initial payment (known as “redemption value”) when the life lease ends.

Tip: Life leases may also have terms under which they may end earlier.

If I enter into a life lease, do I own my unit?

No. When you enter into a life lease agreement, you do not own your unit or any part of the life lease complex. You have the right to occupy the unit for the time outlined in your life lease agreement.

What services would I get when I buy a life lease?

Services vary depending on the life lease agreement. In all cases, you would get exclusive use of your unit. As with a condominium or apartment building, you may also get shared use of facilities and common areas, and building maintenance such as snow removal.

What are some advantages and disadvantages of life leases?

Advantages

- Life lease agreements allow non-profit organizations, and some private organizations, to provide more affordable housing for seniors.
- Depending on the terms of your life lease, you may have security of tenure for your unit, which means that you can stay in your home until the life lease agreement ends.
- Depending on the terms of the life lease, you may have access to common facilities and services (for example, a game room or swimming pool or meal service), and the guarantee that you will be sharing the building with people of your same age group.
- Depending on the terms of the life lease, you may have fewer home maintenance responsibilities. For example, some life lease housing providers may agree to provide basic home maintenance such as snow removal or lawn care.

Disadvantages

- Life leases are relatively new in Alberta and there is no legislation covering this type of lease.
- The terms and conditions in a life lease can vary widely and can be confusing.
- As life leases are relatively new, there may be legal issues that impact this type of agreement, including how your investment will be protected in the event of bankruptcy or death.
- There are many types of options for life leases, and each option will have a significant impact on the value of your investment. Some seniors may have difficulty understanding the differences and making a choice about which option is best for them. You should meet with a lawyer for independent legal advice.

Tip: If you are considering a life lease option you should:

- **clarify how the particular life lease model works**
- **consider how the option will impact the value of your investment and whether the option is appropriate for you**
- **carefully read over the terms and conditions in the life lease**
- **get legal advice**

Can a life lease be passed on to my spouse or family?

This depends on the terms of the life lease agreement. Sometimes, a life lease can be passed on to a family member upon death. In other cases, the agreement may specify that the rights to the unit are passed back to the owner of the building.

What percentage of the entrance fee will I be required to pay? What about monthly payments?

The entrance fee amount depends on what kind of life lease you agree to. Your monthly payments may also vary depending on how much you initially pay for the entrance fee.

In addition to the entrance fee and monthly payments, what other fees may I be required to pay?

The additional charges could include a security deposit, maintenance fees, operating costs, or service fees. If the complex is still in the planning or building stage, you may have to pay a pre-lease payment fee in addition to the entrance fee.

What kind of life lease agreements are there?

The five basic types of life lease models are: zero balance, declining balance, fixed value, price index and market value. The main difference between life lease agreements is the initial amount of money you pay (the “entrance fee”) and how much money you receive back once the life lease agreement ends (the

“redemption value”). You will have to decide which option is best for you. Some factors that you may want to consider are your age and your health, how much money you can afford to pay for an entrance fee, and if you are concerned about increasing the amount you, or your estate, will receive after the life lease agreement ends. The chart below summarizes the differences between them.

	Zero Balance	Declining Balance	Fixed Value or no gain	Price Index	Market Value
What can I expect with the entrance fee?	You pay an amount up front designed to prepay rent for your expected remaining life.	You pay an amount up front based on life expectancy.	The amount you pay at the time of initial occupancy is the same as the redemption value.	The amount you pay will be purchased back from you over the duration of your occupancy based on a price index factor.	You pay an amount that is similar to that of a comparable condominium unit.
Is there a redemption value?	No redemption value.	Redemption value decreases at a steady rate over time.	Redemption value is equal to the purchase amount.	Redemption value increases by a predetermined price index (such as the Consumer Price Index).	Redemption value is based on full market value of the unit.
What does the redemption value mean?	You or your Estate will not receive money back when the life lease ends.	You or your estate is paid a residual value which declines each year to zero at the end of a specific time period.	You will receive the full amount that you paid for your entrance fee when the life lease ends.	The value that you will receive when the life lease ends is determined by a set calculation.	The value that you will receive back will vary as it is based on the full market value of the unit minus deductions for certain fees such as redecorating or marketing fees.

Glossary

Contract Law

This area of law governs oral and written agreements that are made between two or more parties. These agreements create obligations between the parties that can be enforced by law.

Common areas

The parts of the residential premises that can be used by all residents and are under the control of the landlord. Common areas may include hallways, stairs, and laundry rooms in apartment buildings.

Entrance fee

The initial amount of money that a leaseholder pays when entering a life lease agreement.

Leaseholder

The person who buys the right to occupy an unit under a life lease.

Life lease

A type of agreement giving the leaseholder the right to occupy a unit in a development.

Municipal bylaws

Public laws that apply in a certain jurisdiction and are passed by the local municipal government (for example, noise enforcement and parking). To learn about bylaws in your area, contact your local city hall or county office.

Price Index

A normalized average (typically a weighted average) of prices for a set of goods or services during an interval of time.

Redemption Value

The current monetary value for a particular asset. For life leases, the redemption value is the value at the time the life lease agreement ends.



Contacts: Information, Advice and Assistance

Canadian Mortgage and Housing Corporation (CMHC)

Canada's national housing agency. CMHC's housing research library is the most extensive housing information source in the country with online resources, tip sheets, research reports and market reports.

Edmonton: 780-423-8700

Calgary: 403-515-3000

Toll Free: 1-877-499-7245

TTY: 1-888-841-4975

www.cmhc-schl.gc.ca

Law Society of Alberta Referral Service

Provides the names of three lawyers. Each lawyer to provide half-hour consultation free of charge.

Toll Free: 1-800-661-1095

In Calgary: 403-228-1722

www.lawsociety.ab.ca/public/lawyer-referral

Some of the information in this publication is informed by and/or adapted from the following sources:

- **Government of Manitoba Residential Tenancies Branch**
www.gov.mb.ca/cca/rtb/ot/lifelease/index.html
- **Government of Ontario Life Lease Housing Resource Guide**
www.mah.gov.on.ca/AssetFactory.aspx?did=10455
- **Canada Mortgage and Housing Corporation (CMHC), An Examination of Life Lease Housing Issues Research Report**
publications.gc.ca/collections/collection_2011/schl-cmhc/nh18-1/NH18-1-277-2007-eng.pdf

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