Possible valuation issues with LIFE LEASE HOUSING

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Life lease housing is a relatively new form of tenure in Canada, but a rapidly growing one in Ontario and the western provinces. It is widely used by the non-profit sector to increase the range of housing options for the 55+ market. A life lease is a legal agreement that permits the purchaser to occupy a residence for life (or until they no longer want to or are capable of living there) in exchange for an initial lump sum payment. They are also responsible for monthly payments to cover the ongoing operating expenses (similar to a condo fee) and, in some cases, rent, depending on the size of the initial payment.

Life lease is a hybrid type of tenure. In some aspects, life lease holders appear to be owners. They are responsible for repairs to their own units, providing their own appliances and paying the property taxes associated with their unit. The monthly maintenance fee they pay is used to fund operating costs for the common areas and to put aside a reserve fund for capital replacements. In other ways, life lease residents are like renters. The operating budget is set by the owner of the building and may be presented to the residents, but they have little input into how the building is managed. Most complexes in Ontario are set up as condomnium corporations, but the Board of Directors is chosen by the developer and frequently does not have any residents on it. The owner of the building itself is still the developer, since the residents have only purchased the right to occupy a unit, not title to the unit itself.

Residents of life lease developments are active and healthy seniors; these are not complexes for seniors who need help with daily living. There are not extensive services offered in most complexes (no meals or health professionals on staff usually). If residents eventually need some additional personal care to function in their unit, they need to hire this assistance privately.

In design, most life lease units are similar to condominiums in the same locale. They are self-contained units with one or two bedrooms. The buildings have amentities comparable to nearby condo buildings. A study done for the Ontario Ministry of Municipal Affairs and Housing *(Simmons, 1999)* found prices of life lease units in London and Toronto to be similar to those for comparable condo units.

Currently, all life lease housing developments in Canada are located west of the Ontario-Quebec border. The exact number of life lease projects in Canada is unknown; the number was estimated at more than 200 in 2003 *(Lumina Services Inc., 2003)* and approximately 300 in early 2007 in a CMHC study of life lease issues *(GGA Management Consultants, 2007)*. As of 2005, the Ontario government estimated that there were 125 projects (8200 units) in Ontario alone. These numbers are estimates, since there is no requirement for life lease developments to be registered, but it indicates an increase of at least 40% in the number of developments over a three year period. Given the projected growth in the senior population over the next 20 years and the general good health of seniors in Canada today, the demand for this type of development is likely to continue.

Manitoba is the only province to have enacted legislation specific to life lease housing: the *Life Leases Act,* December 1999, amended June 2005. This legislation specifically designates that life lease residents are renters and are subject to the protections and regulations of other renters in the province. Some regulatory mechanisms apply in other provinces within existing legislation not specifically developed for life lease housing. Other than in Manitoba, this leaves residents with some vulnerability to various issues discussed in more detail in the online version of this article.

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One of the reasons for the rapid growth in this form of tenure is the advantage to the developer in financing the development. Life lease interests are presold to prospective residents who submit a deposit. These funds can be used as equity in the development to secure construction financing (some restrictions apply in Manitoba). Once the units are complete and occupied, residents complete the purchase and the additional funds are used to pay off the construction loan. The use of this form of tenure then leaves the developer, usually a non-profit group, with no financing on the property.

There are various forms of life lease arrangements in place across the country. This article concentrates on the primary form of life lease used in Ontario as the basis for the discussion (see online version of this article for information on other forms of life lease arrangements). Life lease purchasers in Ontario pay 'market value' for their life lease interest. When they move out of the unit, they sell the life lease interest to a new purchaser for whatever market value is at that time. The sponsor of the development often charges an administrative fee of 3-10% for the transaction and may maintain a waiting list of interested purchasers.

The life lease holder is greatly concerned with ensuring the building is well managed, that there is continuing demand and a waiting list for units, and that, ideally, the market value of the life lease interest increases over time (or at least does not diminish). In most complexes, however, the sponsor is the only entity that has any real control over how the building is managed.

Life lease holders have the right to occupy their unit and may have his life lease interest registered on title. However, a study done for CMHC found that, although some residents had been advised by their lawyer to register their interest, most had not done so because of the time and expense involved *(GGA Management Consultants 2007)*.

The sponsor has the right to review the purchaser to ensure they fit the criteria for the building. There is always an age restriction (55+ or 65+), but some residences also cater to a specific ethnic or religious group. While it is not legal to discriminate on this basis, prospective purchasers are discouraged from buying on the basis that they would not feel comfortable in the building. This type of targeting of the building reduces the pool of potential purchasers for each unit. It may lengthen the time on the market and could affect the price achievable relative to a comparable condo unit with no market restrictions.

The absence of legislation specific to life leases which would protect and clarify both consumer and sponsor rights can lead to value implications for the resident. There is no legislated requirement in Ontario for life lease developments to maintain a capital reserve, for example. Part of the due diligence a condo purchaser undertakes is to examine the health of the reserves by looking at the most recent reserve fund study. This information is only available to the purchaser of a life lease unit if the owner has done a study and is willing to release the information. As well, life lease units are not protected under the Tarion New Home Warranty program because they are considered multi-family properties. This reduces the value of the unit relative to a new condominium unit with warranty coverage. It also means the purchaser's deposit is not protected.

To date, there have been few issues with life lease developments. However, given their hybrid tenure nature and the lack of legislation covering this form of housing, the possibility of a negative value impact for a life lease owner is there. That said, the 2007 CMHC study by GGA Management Consultants found a very high level of satisfaction with life lease housing and the feeling of community in these developments. It is likely to be a form of tenure that continues to grow.

References

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NOTE:
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