

ULTIMATE LEGRAND REAL ESTATE BOOTCAMP

LEASE OPTIONS: THE ALBERTA VIEW

By:

Barry C. McGuire

b.mcguire@rmlo.com

Richard M. Bell

r.bell@rmlo.com

**Ritchie Mill Law Office
#102, 10171 Saskatchewan Drive
Edmonton, Alberta T6E 4R5
Phone (780) 431-1444 Fax (780) 431-1499
1-888-333-8818**

FULL TIME REAL ESTATE LAWYERS

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Summary Of Ritchie Mill Law Office Comments on Lease to Own

Today's comments are by Barry C. McGuire and Richard M. Bell, both of the Ritchie Mill Law Office in Edmonton, Alberta. Barry and Richard are both full time real estate lawyers.

WARNING: You knew this was coming. We are lawyers and, so, the first thing we are telling you is that anything we say today, any of the examples or documents that we provide, are general in nature and NOT legal advice. Every one of you will have your own specific circumstances. We only ADVISE individuals; call us if you want specific legal advice.

Many REIN™ members are familiar with Ron LeGrand, a well-known real estate expert, trainer, and friend of REIN™. Some of you have participated in Ron's program "Lease / Option Cash Flow System". Barry and Richard have received many calls from REIN™ members looking for assistance in implementing Lease to Own in their personal real estate investing program.

Our goal today is to answer some of the questions REIN™ members have put to us. We are NOT here to teach Ron LeGrand's course. Ron is the expert, he understands the theory and philosophy of the Lease / Option Cash Flow System. He teaches how to use Lease / Option or an Option on its own, or how to buy retail, or how to buy wholesale. He explains much better than we ever could why you need to be able to work with many different real estate concepts. His plan trains you how to work with buyers and sellers to identify their real estate needs and provide what they want. He turns you into what he calls "Transaction Engineers".

The concept of Lease to Own involves you taking control of a property from the current owner. Your goal is to, in the end, sell the property to a buyer you've found, and make some money in the process. In particular, you lease the property from the current owner and at the same time, negotiate an option to buy the property along with the terms of that purchase. Then, you find a tenant to lease the property from you. Along with the lease you negotiate an option for your tenant to buy from you and the terms of that sale. Please note, there are six separate contracts that are involved from beginning to end.

Ron provides material in his seminar where one document includes all three contracts, where you purchase from the current owner, and a separate document that includes all three contracts when you sell to your tenant. Because Ron teaches his courses all over the U.S. and Canada, his forms are generic, one size fits all. Our package includes a couple of his forms modified to use Alberta legal language and concepts. Our package also includes two specific Options; one where you would option the property from the current owner, the other where you would option the property to your tenant.

Rather than try and modify all Ron's forms, we decided to work on the concept and modify only the forms that were absolutely necessary. Every one of you has leased a property at one time, either as a tenant or because you are now an owner and you lease to your own tenants. You are familiar with leases. All of you own your own home and most of you own investment properties, so you are familiar with real estate purchase contracts. That means the only document you really need from us is an example of the Option.

In very simple terms you sign a lease with the current owner, you agree on the Option terms, and you staple your real estate purchase contract to the Option as a Schedule, making sure the real estate purchase contract is also completed. Now you have a Lease to Own.

When you find a suitable tenant who wants to buy, you start with your Lease. Then, you work out the Option terms, complete the real estate purchase contract, and staple it to the Option. There you go, another Lease to Own, all six contracts done.

Some other issues to learn about and/or watch out for are:

- ✓ Make sure you have enough of a 'spread' between what you can buy for and what you, in turn, can get a deposit on, rent out, and sell.
- ✓ Get as large a deposit as you can from your tenant.
- ✓ You can protect your Option by filing a 'caveat' at the Land Titles Office. Ron's material refers to this protection as 'recording your affidavit'.
- ✓ When negotiating your Lease Option with the current owner, you may find that the owner wants to continue to sell or perhaps list the property. Ron suggests, and our material provides, a couple of clauses that you can offer to the seller if that's what they want.
- ✓ Remember, full disclosure with a motivated seller is your best key to success. Your seller has to know upfront that you plan to lease and hope to sell the property to a third party. You want the seller to cooperate by doing a simultaneous close with your tenant using one Transfer of Land.
- ✓ If the seller wants you to assume his existing mortgage, then your buyer / tenant should also assume the mortgage. If your buyer / tenant decides to get new financing, the seller will most likely have a payout penalty because they would have to discharge their existing mortgage. Take this into account in your negotiations.
- ✓ There are many factors to consider in a Lease Option. You would like a lengthy Option or the right to renew the Option for a number of terms. Probably, the seller wants a shorter Option period. It is very important to have a fixed price for the purchase. In a rising market like we are experiencing now, sellers will not want to commit to a fixed price for a lengthy Option period. They will clearly understand that agreeing on a price now for an Option that lasts five years could have them selling their property for way less than what it would be worth in five years. There are other ways to agree on a sale price, but those involve appraisers and are too complicated for this program.

Conclusion

The Lease to Own concept is fundamentally simple. We believe the trick is understanding how the program works, how to find and then negotiate successfully with motivated sellers. If you can find properties with reasonable spreads and motivated sellers, then you should be able to find buyer / tenants and complete the loop.

Remember how difficult it was purchasing your first investment property; this is no different. You have to get out there and get going. Take Ron's course or talk to REIN™ members who have. Ask us lots of questions, and GOOD LUCK!

*** These summaries and attachments are not legal advice. Always consult your lawyer.**

Option to Purchase (Buyer)

Agreement made this _____ day of _____, 20____, by and between
_____, hereinafter Optionor (Seller)
and _____, hereinafter Optionee (Buyer)

Whereas, Seller offers to Buyer an option to purchase real property with improvements thereon and Buyer desires to have the option to purchase said property, the parties, in consideration of their mutual promises contained herein, agree as follows:

1. **Property Subject to Option.** The real property owned by Seller, which is the subject of this Agreement is municipally described as _____, hereinafter referred to as the Property. The legal description is _____.
2. **Term and Exercise of Option.** This Agreement shall provide Buyer with the right to purchase the Property from the date of execution of this Agreement and continuing until _____, 20____. The option shall be exercised by delivering written notice to the Seller no later than 45 days prior to the expiration of the option.
3. **Option Price.** Buyer shall have the right to purchase the Property for \$_____.
4. **Option Consideration.** In consideration for this Option, Buyer agrees to pay Seller \$_____ now and \$_____ upon exercise of this Option. Failure by Buyer to perform all lease obligations in any lease between Seller and Buyer shall constitute default under this Option and void all rights of Buyer hereunder.
5. **Details of Sale.** If Option is exercised, sale will close according to the real estate purchase contract attached as Schedule A. The completion date for the sale shall be 45 days from the date of exercise of the option or such other date as the parties may agree on. If Buyer has in turn sold to his tenant or another buyer, Seller will cooperate to achieve a simultaneous closing with one transfer of land.
6. **Binding on Heirs and Assigns.** This Agreement shall bind and inure to the benefit of all the respective heirs, personal representatives, successors, and assigns of the parties hereto.
7. **Entire Agreement.** This Agreement and attached schedules represents the entire agreement between the parties regarding the option and sale of the Property.

Agreed:

_____ Witness	_____ Date	_____ Optionee (Buyer)
_____ Witness	_____ Date	_____ Optionee (Buyer)
_____ Witness	_____ Date	_____ Optionor (Seller)
_____ Witness	_____ Date	_____ Optionor (Seller)

Addendum to Option to Purchase Agreement

Dated _____

If the Optionee (Buyer) produces a bona fide real estate purchase contract for sale to an ultimate buyer obtained by the Optionee (Buyer), prior to the expiration of this agreement, the term of this agreement will be extended until the sale completes or collapses. This extension will not exceed 90 days.

If the Optionor's (Seller's) realtor produces a bona fide real estate purchase contract during the term of this Agreement and prior to Optionee (Buyer) securing a buyer, or purchasing, this Agreement will be considered null and void at Optionor's (Seller's) written request. Such written request must be personally delivered to Optionee (Buyer) with a copy of the bona fide offer within three days of acceptance, or this agreement will remain valid and binding.

Agreed:

_____	_____	_____
Witness	Date	Optionee (Buyer)

_____	_____	_____
Witness	Date	Optionee (Buyer)

_____	_____	_____
Witness	Date	Optionor (Seller)

_____	_____	_____
Witness	Date	Optionor (Seller)

Option to Purchase (Tenant)

Agreement made this _____ day of _____, 20____, by and between
_____, hereinafter Optionor (Landlord)
and _____, hereinafter Optionee (Tenant)

Whereas, Landlord offers to Tenant an option to purchase real property with improvements thereon and Tenant desires to have the option to purchase said property, the parties, in consideration of their mutual promises contained herein, agree as follows:

1. **Property Subject to Option.** The real property controlled by Landlord, which is the subject of this Agreement is municipally described as _____, hereinafter referred to as the Property. The legal description is _____.
2. **Term and Exercise of Option.** This Agreement shall provide Tenant with the right to purchase the Property from the date of execution of this Agreement and continuing until _____, 20____. The option shall be exercised by delivering written notice to the Landlord no later than 45 days prior to the expiration of the option.
3. **Option Price.** Tenant shall have the right to purchase the Property for \$_____.
4. **Option Consideration.** In consideration for this Option, Tenant agrees to pay Landlord \$_____ now and \$_____ upon exercise of this Option. Failure by Buyer to perform all lease obligations in any lease between Landlord and Tenant shall constitute default under this Option and void all rights of Tenant hereunder.
5. **Details of Sale.** If Option is exercised, sale will close according to the real estate purchase contract attached as Schedule A. The completion date for the sale shall be 50 days from the date of exercise of the option or such other date as the parties may agree on.
6. **Binding on Heirs and Assigns.** This Agreement shall bind and inure to the benefit of all the respective heirs, personal representatives, successors, and assigns of the parties hereto.
7. **Entire Agreement.** This Agreement and attached schedules represents the entire agreement between the parties regarding the option and sale of the Property.

Agreed:

_____ Witness	_____ Date	_____ Optionee (Tenant)
_____ Witness	_____ Date	_____ Optionee (Tenant)
_____ Witness	_____ Date	_____ Optionor (Landlord)
_____ Witness	_____ Date	_____ Optionor (Landlord)

Examples of Additional Terms

Use any combination to add to your real estate purchase contracts as you see fit.

Your Sale to Your Tenant

1. This agreement will become null and void if buyer vacates property or defaults on tenancy, before the closing date, for any reason. *(This should be in EVERY real estate purchase contract where you are the seller to your tenant. However, where you are the buyer from the current owner, the owner will want the clause, too. You could offer the clause as a sign of good faith.)*
2. Buyer will pay, on the same day rent is due, an additional \$_____ over and above the rent payment of \$_____. Each such payment will be by separate cheque and applied to the purchase price as further deposit and will cease on payment of \$_____ or purchase of the property. All additional payments are non-refundable.
3. Seller will provide _____% credit matching any additional deposit payments over and above the rent payment to a limit of \$_____. Such matching credits will only apply if the buyer completes the purchase.

Your Purchase From Current Owner

1. If buyer sells or assigns his interest to his tenant or a third party, seller will cooperate to achieve a simultaneous closing with the ultimate buyer using one transfer of land. *(This clause is in the one page seller/buyer option but not in the long form of lease option or the one page landlord / tenant option. With proper disclosure, about your intentions to sublease / sell to your tenant, the current owner should not have a problem with a simultaneous closing.)*

NOTES:

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