



ISSUES IN OWNERSHIP OF REAL ESTATE

CANADA - ALBERTA Blake, Cassels & Graydon LLP

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1. Is perpetual fee simple ownership of real property permitted? If not, what are the principal forms of ownership, or other principal form of ownership, of real property?

Yes, fee simple absolute property ownership is permitted in Alberta.

2. What instruments are used to convey fee simple ownership, or other principal form of ownership, of real estate?

A transfer of land is used to convey ownership of real estate. A transfer will be construed as conveying the entire estate or interest that the transferor owns unless any limitations are clearly expressed. An assignment of lease is utilized for the transfer of a leasehold interest in land unless a leasehold title has been issued, in which case a transfer of land is used.

3. How in this jurisdiction is the ownership of real property recorded or searched? Who generally performs the search?

A title search is conducted at the government land titles registration office to ascertain the registered ownership of the real property. The title search may be conducted by a lawyer, a paralegal or law clerk working for the lawyer or, in some circumstances, a title insurance company.

4. What assurances of ownership are available to purchasers of real property (e.g., title insurance or title opinions)? What is the cost of obtaining such assurances?

There is a government guarantee of registered title that applies in Alberta. In many transactions, purchasers rely upon title opinions from the purchaser's lawyer. Title insurance is available in Alberta. Insurance companies are regulated by the Province of Alberta. Title insurance rates are set by various title insurance companies and are generally approximately \$0.60-\$0.70 per thousand dollars of value of the real property insured.

5. What are the most common forms of investment vehicles? What are the most common entities employed to own investment real estate in a tax efficient manner?

There are many forms of investment vehicles utilized to hold beneficial ownership of real estate in Alberta: an unlimited liability company, a general partnership, a limited partnership, a trust or a real estate investment trust. Sometimes two or more beneficial owners of real estate hold as tenants in common (or co-tenants). Registered ownership is almost always held in the name of a limited liability company. The most common entities employed to hold beneficial interest in real estate are limited partnerships, trusts or unlimited liability companies, depending upon the tax rules applicable in the home jurisdiction of the investment vehicle and in Alberta.

6. Has this jurisdiction adopted, or is it considering, legislation permitting the creation of real estate investment trusts or similar entities?

Real estate investment trusts are permitted in Alberta and other provinces in Canada. Certain rules govern the tax status of REITs under the *Income Tax Act* (Canada).

7. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the direct transfer of real estate?

There are no provincial land transfer taxes in Alberta.

8. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the transfer of interests in entities which own real estate?

Land transfer tax is not applicable to the transfer of shares in a corporation owning real estate or transfers of interests in limited partnerships.

9. How significant is local regulation and taxation of real estate? How significant is the variation of real estate law among political subdivisions of this jurisdiction?

There are no local land transfer taxes in Alberta.

10. Must ultimate beneficial owners of entities which own real estate be disclosed as a matter of public record?

The ultimate beneficial ownership of entities need not be disclosed as a matter of public record.