

Lease Options for Resorts and Other Multi-unit Developments

	Commercial Lease	Strata-style Lease	Individual Residential Lease
Concept	<ul style="list-style-type: none"> • A developer intends a long-term commercial enterprise to develop and maintain a residential community 	<ul style="list-style-type: none"> • A developer intends to develop and sell a residential community to be maintained by a homeowner's association (HOA) 	<ul style="list-style-type: none"> • Individual users develop, maintain and live in their own homes; or a developer develops the properties and sells to individual users who maintain own properties
Lease relationships	<ul style="list-style-type: none"> • Crown leases to lessee developer under a head lease • Developer sells long-term subleases to users or rents to users on a short-term basis, such as month-to-month or year-to-year 	<ul style="list-style-type: none"> • Crown leases to lessee developer under a head lease • Developer sells long-term subleases to users and assigns remaining interest to HOA 	<ul style="list-style-type: none"> • Crown leases directly to lessee user (or to lessee developer who builds and then assigns lease to lessee user)
Remedies	<ul style="list-style-type: none"> • Uncured defaults can lead to cancellation of the head lease 	<ul style="list-style-type: none"> • Head lease cannot be cancelled for uncured defaults after subleases granted • Remedies of damages or specific performance enforced through courts 	<ul style="list-style-type: none"> • Uncured defaults can lead to cancellation of the lease
Subleases	<ul style="list-style-type: none"> • If head lease cancelled, subleases will end early unless an NDA is in place or courts grant relief from forfeiture • Sublessees usually have no rights to know of or cure head lease defaults 	<ul style="list-style-type: none"> • As head lease cannot be cancelled after subleases granted, sublessees protected from head lease defaults • HOA must cure defaults and will charge sublessees for costs 	<ul style="list-style-type: none"> • Subleases often not allowed • When they are allowed, their situation is similar to sublessees under a commercial lease

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CMHC	<ul style="list-style-type: none"> • CMHC-insured financing not available to sublessees, absent a non-disturbance arrangement (NDA) 	<ul style="list-style-type: none"> • CMHC-insured financing available to sublessees 	<ul style="list-style-type: none"> • CMHC-insured financing available to lessees
Common Property	<ul style="list-style-type: none"> • Lessee maintains common property • Lessee charges sublessees fees for common property repair and maintenance • Sublessees have no control over common property repair, maintenance, or rules of use 	<ul style="list-style-type: none"> • Lessee assigns or subleases common property to HOA • HOA maintains common property and sets rules of use • HOA charges sublessees fees for common property repair and maintenance • Sublessees have control of HOA similar to strata corporations 	<ul style="list-style-type: none"> • No common property • Roads are maintained as First Nation roads • Utilities may be installed on-site by lessee for own use, or provided to site by First Nation or private providers on a fee basis, or a combination of both
Insurance	<ul style="list-style-type: none"> • Lessee may pay for all property and liability (P&L) insurance, and may charge through to sublessees directly as part of their fees • Lessee may require sublessees to maintain P&L insurance for their units, but remains responsible for all insurance requirements under head lease 	<ul style="list-style-type: none"> • HOA will pay for all property insurance on all common property and the full extent of any buildings (which includes sublease units) • HOA will pay for liability insurance for HOA, Canada and FN • Sublessees may pay for any additional P&L insurance they wish 	<ul style="list-style-type: none"> • Lessee will pay for all P&L insurance