

Real Estate Glossary of Terms

Need help with legal jargon? This glossary will help you get your head around the most common terms when selling property and buying property or transacting in real estate in general. This Glossary seeks to give a simple explanation of the terms commonly used; it is not necessarily the legal definition.

Certificate of Title - A certificate pursuant to the Real Property Act that records details in relation to specified land including ownership, boundaries, limitations of title and mortgages. The original of the certificate of title is held by the Lands Titles Office, or such namesake, and may be in an electronic form. A copy of the certificate is delivered to the registered proprietor or other person entitled to receive it.

Community Corporation - The corporation automatically created on the deposit of a community plan. The community corporation manages the common property within that plan and facilitates various matters of common interest for the residents of the community lots. The owners of the community lots are its members.

Community Lot - A defined piece of land (not being common property or a development lot) within a community plan.

Community Plan - A plan under the Community Titles Act that divides a parcel of land into community lots and common property and sometimes development lots. Where the community lots are on different levels, the division of the land must be by strata.

Community Title - A title to land within a community plan.

Conveyance - The legal and statutory processes required to transfer ownership of real estate. The preparation, execution, verification, and lodgement of various legal documents are important elements of a conveyance.

Conveyancer - a person approved to advise on and prepare documents to transfer, or convey, real estate. The term "Conveyancer" includes a property solicitor and registered conveyancer.

Cooling Off - Withdrawing from, or rescinding or terminating a contract under a statutory right given by a relevant Act.

Develop - To improve (land) in some way, often by building.

Development Lot - A defined piece of land within a community plan that is neither common property nor a community lot. Not all community plans include development lots. Development lots are subsequently converted into one or more community lots plus (in most cases) additional common property.

Easement - A legal right to use a designated part of some-one's land for a particular purpose. Types of easement include a right of way (to pass and repass to access adjoining land) and a right to use and maintain sewerage pipes.

Fee simple - The highest interest in land (whether built on or not) that can be owned by a person other than the Government.

Fixture - This term has a highly technical legal definition when used in a contract for the sale of land. In simple terms, it describes something that has been deliberately affixed to the land (or some building on the land) for the better use or enjoyment of the land, not of the fixture: hence, difficulties arise in classifying equipment such as air conditioners, dishwashers and clothes driers. Any item that may be a fixture should be specifically referred to in the contract to avoid disputes.

Joint Tenancy - One of the two main ways in which two or more persons may own the same parcel of land (the other being tenancy in common).

The principal features which distinguish a joint tenancy are:

- unity of time, title, interest and possession; and
- the right of survivorship. Under which the interest of a joint tenant passes automatically upon death to the surviving joint tenant(s).

Joint Tenants - Two or more people holding land under a joint tenancy. Each joint tenant is entitled to the use, possession, and enjoyment of the whole of the land, subject to the rights of the other joint tenant(s).

Land - The term to describe land whether built upon or not. By law, land defined by a certificate of title includes all buildings, fixtures and improvements on the land.

Lands Titles Office (or similar namesake) - The office of the Registrar-General (a public officer) that holds the records of all non-government land. All transfers of land must be registered there.

Lease - An exclusive right to occupy land (whether for residential or other purposes) for a fixed period (see also "License").

License - A non-exclusive right to occupy land (see also "Lease").

Lot - An abbreviated reference to a community lot or a development lot (see "Community Lot" and "Development Lot").

Memorandum of Transfer - A document signed by the vendor and the purchaser (not being the contract) that, when registered at the Lands Titles Office, (or similar namesake) legally changes the ownership of the land.

Mortgage - A loan for which land is used as security for repayment.

Mortgagee - A lender whose debt is secured over property.

Mortgagor - A borrower who uses property as security for repayment.

Purchaser - Buyer.

Registered Proprietor - The person whose name appears on the certificate of title as the owner of the land.

Right of Way - A right to use a designated part of someone's land to access adjoining land.

Settle - To fulfil the terms of the contract of sale. This involves handing over the purchase price in exchange for a memorandum of transfer that has been properly signed by the vendor and physical and legal possession of the land in accordance with the contract.

Settlement - The time at which the parties settle (see "settle").

Special Condition - A condition in a contract of sale that must be satisfied or waived before the person for whose benefit the condition was inserted can be forced to settle on the contract.

Strata Corporation - The corporation automatically created on the deposit of the strata plan. The strata corporation manages the common property within that plan and facilitates various matters of common interest for the residents of the strata units. The owners of the strata units are its members.

Strata Plan - A plan under the Strata Titles Act that divides a parcel of land into strata units and common property. Note that a parcel of land may also be divided into strata by a community plan under the Community Titles Act (see "community plan").

Strata title - A title to land within a strata plan.

Tenancy in Common - One of the two main ways in which two or more persons may own the same parcel of land (the other being joint tenancy). Tenancy in common lacks at least one of the features of joint tenancy, for example the parties own the land in unequal shares (see "joint tenancy").

Tenants in Common - Two or more people holding land under a tenancy in common.

Title - The right to occupy and use specified land but subject to any limitations of title set out on the certificate of title. (See also "Certificate of Title").

Torrens System - A system of registration of titles.

Torrens Title - A certificate of title issued pursuant to the Real Property Act (or similar namesake).

Unit - See "Strata Unit".

Vendor - Seller.

Waive - to give up a legal right. A purchaser of land may waive the right to cool off in certain circumstances (see "Cooling Off"). A person may waive the right to be able to rely on a term (including a special condition) of a contract of sale.

