

Exotic Subdivisions

LGMA Approving Officers Seminar
Nanaimo B.C.
June 21, 2016

Corporate Ownership: Residential Apartments

*The plaintiff is a British Columbia corporation incorporated for the sole purpose of holding legal title to an apartment building located at 1743 Pendrell Street in Vancouver (the "Building"). The plaintiff is organized in a manner designed to permit **common ownership of the Building** and to permit each owner to **exclusive occupation of a suite** in the Building. The structure used to accomplish this objective is simple. The plaintiff is the lessor of a separate lease, with a term of 99 years from June 1, 1968, for each of the suites in the Building. To be entitled to become a lessee of a suite, a person must acquire **shares in the capital of the plaintiff** in a ratio determined by the size of the suite they lease. The Articles of Association of the plaintiff (the "Articles") and all of the leases require the consent of the directors of the plaintiff to any assignment or transfer of shares or lease.*

1743 Pendrell Ltd. v. Ewin Estate [2016] B.C.J. No. 231

Corporate ownership: bare land

*The development of the Property was designed to be and needed to be self-financing, because neither Mr. Felske, nor Mr. Mattix, had the financial resources to complete the project. As a first step, they incorporated the defendant Eiyom Properties Ltd. ("Eiyom"). To finance the project, Mr. Felske and Mr. Mattix proposed to sell **32 shares of Eiyom, with each share entitling the owner to one lot on the Property**. The actual development work and improvements to the Property would be done by the Developer, a second company incorporated by Mr. Felske and Mr. Mattix.*

603262 B.C. Ltd. v. Eiyom Properties Ltd. 2016 BCSC 903

Corporate Ownership: Bare Land

Application Entered	1630-01-07
Registered Owner in Fee Simple Registered Owner/Mailing Address:	THE TOWNER BAY COUNTRY CLUB LIMITED C/O HENLEY AND WALDEN 201 - 2377 BEVAN AVENUE SONEY, BC V1L 4W9
Taxation Authority	DISTRICT OF NORTH SAANICH
Description of Land Parcel Identifier: Legal Description:	009-416-010 THAT PART OF SECTION 16, RANGE 2 WEST, NORTH SAANICH DISTRICT, LYING WEST OF THE WEST BOUNDARY OF PLAN 3577, AND ITS PRODUCTION TO THE NORTH BOUNDARY OF SAID SECTION, AND CONTAINING 30 ACRES MORE OR LESS



The parcel was surveyed ...

I, A.S.G. Musgrave of Oak Bay, British Columbia (hereinafter, in this deed, called "myself") with parcel of land with permanently-encumbered, the during redemption of this plan and that the during and plan are shown. The said survey was completed on the 29th day of November, 1941.

Witness my hand and the seal of the said City of Oak Bay, B.C., this 29th day of Nov. 1941.

A.S.G. Musgrave
 A Commissioner for taking Affidavits in & for the Province of British Columbia

... but not subdivided

Approved under the Land Registry Act
 Chief Engineer, Public Works Dept
 Date

So what exactly is a "lot" in North Saanich?

"lot" means a parcel of land registered in the Land Title Office and strata lots created by bare land strata subdivision, and in the case of that area of the District lying to the south of Towner Park Road and to the west of the road allowance immediately west of Plan 3577, includes those 27 unsubdivided plots of land described in the plan prepared for the Towner Bay Country Club Limited by A.S.G. Musgrave, B.C.L.S. and certified correct on November 29, 1941;

North Saanich Zoning Bylaw No. 1255 as amended

Undivided fractional interests: buildings

This case concerns a multi-unit residential condominium complex in North Vancouver called Seymour Estates.

*Seymour Estates is made up of eight buildings containing a total of 114 individual units situated on about 25,000 square metres of land. The complex was built about 40 years ago and was structured so that each owner holds an **undivided fractional interest** in the land, for example, 963/100,000, and has exclusive use and possession of one of the units.*

This arrangement has been described as a common law strata: Mowat v. Dudas, 2012 BCSC 454. Common law stratas are now prohibited under the Strata Property Act, S.B.C. 1998, c. 43 but Seymour Village and a handful of other similar complexes are grandfathered under that Act.

McRae v. Seymour Village Management Inc. [2014] B.C.J. No. 766

Undivided fractional interests: bare land

*This case is a tax dispute over a 3.1-acre parcel of land on Bowen Island, which is part of a larger parcel of land that has been owned and used by members of the Underhill family for approximately 50 years. Until 1991, the land was owned by Hood Point Properties Ltd. ("Hood Point") a family holding company, as a single undivided parcel. Thereafter, Frost, Knight and their brother each bought **undivided fractional interests** in the parcel from Hood Point, paying transfer tax on those purchases. The first of these occurred in 1991, at which time the brother also had his property subdivided, as required by the regulatory authorities, so that he could build a home. Hood Point received an advance tax ruling that the transfers involved in conveying the parcel to the brother and removing his interest in the remaining property would be exempt from property transfer tax under the subdivision exemption.*

After the subdivision of the brother's parcel, Frost and Knight each held an undivided 1000/3100th interest in the land, or 32.26%, representing one acre. Hood Point held an undivided 1100/3100th interest, or 35.48%, representing 1.1 acre of the parcel.

Hood Point Properties Ltd. v. British Columbia [2002] B.C.J. No. 905

Undivided fractional interests: bare land

Registered Owner in Fee Simple

Registered Owner/Mailing Address: CITY OF KELOWNA

1435 WATER STREET

KELOWNA, BC

V1Y 1J4

AS TO AN UNDIVIDED 1/2 INTEREST

Registered Owner/Mailing Address: DISTRICT OF LAKE COUNTRY

10150 BOTTOM WOOD LAKE ROAD

LAKE COUNTRY, BC

V4V 2M1

AS TO AN UNDIVIDED 1/2 INTEREST

Taxation Authority DISTRICT OF LAKE COUNTRY

Description of Land

Parcel Identifier: 013-552-210

Legal Description:

THAT PART OF THE NORTH WEST 1/4 OF SECTION 24 TOWNSHIP 14 OSOYOOS

DIVISION YALE DISTRICT SHOWN RED ON PLAN 2703F

Time share use plans and ownership plans

"**time share plan**" means a plan in respect of land in which persons participating in the plan

(a) each have a **right of recurring use, occupation or possession** of all or part of the land, including any accommodations or facilities located on it, on a periodic basis, and

(b) may or may not acquire an **ownership interest in the land** that is the subject of the plan.

Real Estate Development Marketing Act SBC 2004 c. 41

And one that was a little too exotic for the Registrar's tastes ...

The scheme of the development was to create 200 strata lots and assign to each of the strata lots as limited common property under the Condominium Act R.S.B.C. 1996 c.4, one of 200 recreational vehicle sites for the exclusive use of the owner of the strata lot to which it was assigned.

The strata plan indicates that the several strata lots are 0.07 square metres each in area and stacked in rows to a height of seven levels. Each strata lot has a total space of 0.098 cubic metres.

In his "notice declining to register" issued pursuant to section 308 of the Land Title Act the registrar characterized what was purported to be a "building" for the purposes of the Condominium Act as a "mailbox". In my view, that is an apt description of the purported "building".

Swan Lake Recreation Resort Ltd. v. British Columbia (Registrar of Land Titles) [1999] B.C.J. No. 1384