

Agreements of Purchase and Sale

The Residential Tenancies Act:

- Does not describe the difference between an Agreement of Purchase and Sale and a lease.

Reference:

Residential Tenancies Act not applicable.

Details:

When hearing a dispute between a landlord and a tenant, the Officer must first determine if a landlord-tenant relationship exists between the parties. If determined that there is no such relationship, the parties are left to resolve the dispute by other means. When an Agreement of Purchase and Sale exists between the parties, the Officer will consider the following definitions as well as the evidence to decide if a landlord-tenant relationship exists. Note that there is no such thing as a verbal Agreement of Purchase and Sale.

Agreement of Purchase and Sale: are documents which contain an agreement between parties for the transfer of the ownership of real property. The sale price may be paid in equal instalments over a period of time, or may be payable all at once upon closing. The ownership of the property remains with the seller until the price has been paid in full, although the purchaser may be allowed to live in the property during that time. The payments are NOT RENT because they apply to the purchase price, and each payment increases the ownership interest of the purchaser. There is no such thing as a verbal Agreement of Purchase and Sale for real property, as per S.B.W. No. 182794.

Lease with an Option to Purchase: A lease may include an option to purchase. A person enters into a contract to rent a property and the owner agrees that at some point the person may, if he or she so wishes, purchase the rented property. The option to purchase is a valid and separate contract and is incidental to the landlord/tenant relationship. This contract is an interest in land and may be registered at the Registry of Deeds for the county in which the property is located. Sometimes the contract specifies the purchase price and allows the rent payments already made at the time of triggering of the option to be applied to the agreed purchase price of the property.

The contract is not an Agreement of Purchase and Sale. The option to purchase the property expires on the date as set out in the document, or if not specified, would expire when the lease expires. A

landlord/tenant relationship exists.

Lease: is a contract under which the landlord gives the tenant the right to exclusively possess real property for a period of time in consideration for a periodic payment of rent. The landlord retains ownership of the property. A landlord/tenant relationship exists.

Procedure:

Not applicable.