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## Doron F. Eghbali Real Estate Law

### [What Are Some Characteristics of Real Estate Options?](#)

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In real estate jargon, options are referred to contractual undertakings entered into between a real estate owner and a potential purchaser to respectively sell and purchase the real estate on occurrence of some defined terms. Nonetheless, real estate options could be really complicated. Let us further explore some of the characteristics of such options, in some detail.

#### **SOME BASIC CHARACTERISTICS OF REAL ESTATE OPTIONS**

- Option is both an offer to sell the property on certain defined terms AND a contractual undertaking to leave that offer open for a period of time.
- Option could be irrevocable if the potential purchaser pays consideration for the offer.
- Option makes it possible for the potential purchaser to demand its removal from the market for the period of the option or at least forewarn potential purchasers that any transaction with them is subject to be preempted by the exercise of the option. Since option makes it impossible for real estate owner to secure other deals, the real estate owner may demand a relatively higher premium for the option.
- Option is, *often*, NOT a contract of sale, since it DOES NOT impose any duty on the purchaser to purchase the property.

#### **SOME NOTES ON DRAFTING REAL ESTATE OPTIONS**

- Drafting options is usually an exacting process. Options are not short, simple documents just describing the property, the parties, the method of exercising such option and the selling price.
- Drafting option should contain provisions usually reserved for binding contracts since when such options are exercised they become binding contracts. As such, options MUST satisfy the Statute of Frauds.
- Drafting option should also flesh out the precise method of exercising the option.

## **SOME NOTES ON DRAFTING METHOD OF EXERCISING REAL ESTATE OPTION**

- Option could be for a definite price set out in the option agreement.
- Option agreement, alternatively, may spell out a method of arriving at the purchase price such as using an appraiser.
- CAVEAT: Never the purchase price should be left to future agreements between the parties.

### **CAVEAT**

*TIME IS OF THE ESSENCE IN OPTION CONTRACTS.*

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