



Southern Nevada CCIM Chapter

PERSPECTIVE

DECEMBER 2019 EDITION

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HIGHLIGHTS FROM INSIDE:

PRESIDENT'S MESSAGE



By RYAN MARTIN, CCIM, SIOR
2020 SOUTHERN NEVADA
CCIM CHAPTER PRESIDENT

Past Leaders, Dedicated
Members Have Made the
Chapter What it is Today

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LEGISLATIVE UPDATE



By TRAVIS NELSON
FIRST AMERICAN TITLE

A Breakdown of The
Bureau of Land
Management and
2019's Land Auctions

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LEGAL BRIEFS



By JORDAN B. PEEL, ESQ.
MARQUIS AURBACH COFFING

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A Primer

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OUR PROFESSIONALS MAKE THE DIFFERENCE



Lease Versus License: A Primer

We have discovered that many of our clients that first engage our firm to prepare a lease contract are actually better served by using a license contract instead, and vice versa. These terms (lease and license) are often confused and misused. This article is meant to offer a quick glance at the differences between lease and license.

including the landlord (except in certain instances – e.g., landlord needs to make repairs or collect rent). Generally speaking, a lease “runs with the land,” which means that a subsequent buyer of the property may be bound by the preexisting lease.

Lease

A lease is a contract between a landlord and a tenant whereby the landlord conveys to the tenant exclusive possession of property for a certain period of time (e.g., the right to possess a particular retail space in a shopping center) in exchange for the tenant paying the landlord rent. This conveyance gives the tenant an actual vested leasehold interest in the property, which affords the tenant many protections under the law (e.g., maintenance obligations, access restrictions, notice requirements, management and use of security deposit, disposal of property, etc.). One of the key characteristics of a lease is that the tenant has the right to possess the property at the exclusion of others,

License

A license is a contract between a property owner and a licensee whereby the owner gives the licensee permission to access and use the owner’s property; however, there is no conveyance of interest in the property to the licensee or creation of a leasehold estate in the property. As a result, the licensee does not have as many protections under the law as a tenant has under a lease. Under a license arrangement, the owner may revoke the license at any time and for any reason. Moreover, depending on the agreement, the owner may also access the property at any time and even grant licenses to other licensees to access and use the same property (i.e., no restrictions on access or exclusivity). A license is generally not deemed to “run

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with the land,” which means that a subsequent buyer of the property is not bound by the license.

Lease or License?

In many cases, property owners would prefer a license over a lease because the owner retains more control and flexibility over the property as outlined above; however, if the license arrangement smells, feels and tastes like a lease, a court is likely to construe it as a lease. Courts generally look beyond the title of the contract and instead focus on the underlying features and intent of the parties to determine whether a relationship is that of a lease or a license. In the event the license is deemed to be a lease, the owner’s powers diminish and the parties are bound by the statutes governing evictions. Common examples of when a license arrangement may be more appropriate include a kiosk in a shopping center, storage areas, parking spaces, certain office or retail space, shared workspace, etc. It is recommended that a property owner seeks competent legal assistance in determining whether a lease or license better serves its needs. 


Jordan Peel is a transactional attorney with of the Las Vegas law firm, Marquis Aurbach Coffing. He can be reached at 702-382-0711 or visit the firm’s website at www.maclaw.com

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