

## Publisher's Note

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### A Commercial Tenancy Handbook

Olson

Release No. [1], [April] 2021

#### Publisher's Special Release Note 2021

The pages in this work were reissued in April 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the April 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

This release features updates to the case law and commentary in the following chapters: 1 (Leases and Related Uses of Land), 2 (Commercial Leases of Land: The Essential Terms), 3 (Express and Implied Terms of Leases), 5 (The Exercise of Options to Renew), 6 (Problems Encountered by Landlords), 7 (Problems Encountered by Tenants), 8 (Remedies of Landlord and Tenant), 10 (Commencing and Conducting an Arbitration) and 12 (Possession of Premises Without a Lease). As well, this release includes updates to the Case Comments Appendix.

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## Highlights

- **Commercial Leases of Land: The Essential Terms — The Parties to the Lease — Generally** — An individual signing a lease in a personal capacity may be found to have bound the corporate owner of the property if the individual had actual, or ostensible authority to bind the corporation. The corporation may also, by its conduct, be found to have ratified the lease: *Dhami v. Redekop*, 2020 CarswellBC 1062 (B.C. S.C.), additional reasons 2020 CarswellBC 1580 (B.C. S.C.).
- **Express and Implied Terms of Leases — Miscellaneous Provisions — Force Majeure Provisions** — Whether any particular circumstance will be included in a *force majeure* provision will depend entirely on the language of the provision in the context of the lease as a whole. A *force majeure* provision will generally preclude a claim that the lease has been frustrated for any event contemplated in the provision: *Interfor Corporation v. Mackenzie Sawmill Ltd.*, 2020 CarswellBC 2623 (B.C. S.C.).
- **Commercial Leases of Land: The Essential Terms — The Premises — A “Gross-Up” Provision** — Unless the lease has a specific provision for remeasurement of the premises and an adjustment to the minimum rent and operating costs, neither a landlord nor a tenant will have a basis to claim an adjustment. Further where minimum rent is stated as an annual, or other periodic, amount a court will not find that a reference to the area of the premises in the lease will imply a term that the rent is calculated on the stated (or adjusted) area: *Tran v. Bloorston Farms Ltd.*, 2019 CarswellOnt 21021 (Ont. S.C.J.), affirmed 2020 ONCA 440 (Ont. C.A.), additional reasons 2020 CarswellOnt 9208 (Ont. C.A.).

## ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases, Table of Statutes and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable