

Life Estate: Who Pays What?

This article provides a simple overview of the responsibilities of a life tenant in regards to a life estate. The information contained herein should not be relied upon for legal advice and an attorney should be considered when dealing with issues concerning life estates.

In New Jersey, the life tenant is solely responsible for the payment of the real estate taxes for a life estate. This has been confirmed in case law that a life tenant is ordinarily required to pay taxes and pay interest on the mortgage. Kruse v. Meissner, 136 N.J. Eq. 209 (1945). *See also* N.J.S.A. 2A: 65-2. It has also been held in Tichenor v. Mechanics & Metals Nat. Bank of City of New York, 96 N.J. Eq. 560 (1924), that a life tenant must pay the taxes.

Additionally, a life tenant must maintain the property. This issue has been addressed many times through New Jersey case law, although the cases are somewhat dated. It is settled law in New Jersey that a life tenant is a trustee for the benefit of the remainderman. Trafton v. Bainbridge, 126 N.J. Eq. 448 (1939). As such, the life tenant has the duty to keep the property in as good repair as when the estate began, not excepting ordinary wear and tear. Burlington County Trust Co. v. Kingsland, 18 N.J. Super. 223 (1952). A life tenant, however, is not required to make extraordinary repairs. Savings Investment & Trust Co. v. Little, 135 N.J. Eq. 546 (1944). A life tenant must make such ordinary repairs as are necessary to preserve the property from decay. He is not bound to expend extraordinary sums for that purpose. Savings Investment & Trust Company v. Little at 550 and 551.

Simply put, a life tenant cannot commit waste on or of the property. When a life tenant neglects to pay taxes and fails to make necessary repairs, he is guilty of permissive waste. Woolston v. Pullen, 88 N.J. Eq. 35 (1917). Permissive waste is defined as that kind of waste which is a matter of omission only, as by suffering a house to fall for want of necessary reparations. Black's Law Dictionary, 5th Edition (1979). Additionally, New Jersey Statute, N.J.S.A. 2A: 65-2 states, "no tenant in dower or curtesy or for life, years or any term, shall during the term, make or suffer any waste, sale or destruction of any property belonging to the tenements demised, without special license in writing." Further, New Jersey Statute, N.J.S.A. 2A: 65-3 provides, "a civil action may be maintained in the superior court against the tenant, and upon a finding that waste has been committed, treble damages shall be assessed or granted, and the defendant shall lose the things or place wasted." Treble damages are defined as damages given by statute in certain cases, consisting of the single damages found by the jury, actually tripled in amount. Black's Law Dictionary, 5th Edition (1979).

With regard to any homeowner's insurance payments, the general rule is that the tenant for life and the remainderman pay insurance for their respective interests. Kearney v. Kearney, 17 N.J. Eq. 59 (1864).