

# THE LANGUAGE OF REAL ESTATE

SEVENTH EDITION

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contrast with operating expenses necessary to maintain the production of income from the operation of a property. (See **operating expenses**.)

**fixed lease** See **gross lease**.

**fixed-rate loan** A loan with the same rate of interest for the life of the loan. Until recently, the fixed-rate loan was the predominant real estate loan, but more and more consumers are taking adjustable-rate loans.

**fixer-upper** A property needing a lot of repair work, usually sold below market value. (See "**as is**.")

**fixing-up expenses** Expenses (such as painting and carpet cleaning) incurred in repairing and refurbishing a primary residence in order to facilitate its sale; no longer deductible under current rules for sales of personal residence. (See **residence, sale of**.)

### fixture

1. An article (such as a stove, a bookcase, plumbing, track lighting, or tile) that was once personal property but has been so affixed to real estate that it has become real property. Whether an article is a fixture depends on the intention of the parties and may be determined by the manner in which the item is attached, its type and adaptability to the real property, the purpose it serves, and the relationship of the parties. Generally, the test of whether an item is a fixture as a result of its method of attachment depends more on the firmness of its installation than on the damage that might be caused by its removal. The fact that removal leaves a dirty or unpainted spot is irrelevant. Some articles are so closely associated with a structure that they are deemed to be fixtures under the constructive annexation theory (as in the case of house keys, which pass to the buyer upon sale of the property). Also called *easily removable real estate items*.

If an article is determined to be a fixture, it passes with the property even though it is not mentioned in the deed. When a fixture is wrongfully removed from property, damages are generally measured in terms of the value of the fixture as part of the realty, not the price the fixture would command on the open market after removal.

An exception to the fixture rule is made for trade or tenant fixtures. A business tenant can normally remove trade fixtures at the termination of the lease because the courts reason that the parties did not intend that the tenant's fixtures would become a permanent part of the building. The trade fixture rule applies only to those articles installed by the tenant, not to those installed by the landlord. If the tenant fails to remove trade fixtures, the landlord takes title to the abandoned property.

The question of whether an item is a fixture, and thus part of the real estate, arises in several cases: in determining real estate value for tax purposes, in determining whether a real estate sale included the item or items in question, in determining whether the item in question is part of the security given by a mortgagor to a mortgagee, in determining the ownership of the item in question when the lease is terminated, and in determining coverage under a hazard insurance policy that excludes personal property items.

The question of whether an item is a fixture has become especially important in modern transactions because of the different rules of lien priority for fixtures and nonfixtures set forth by the Uniform Commercial Code.

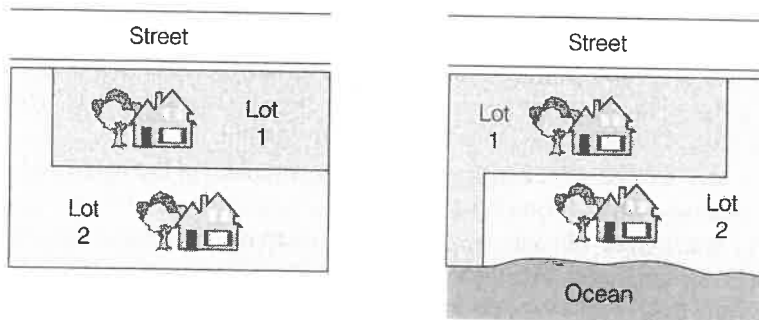
A seller must deliver all fixtures unless noted as exceptions in the contract of sale. This applies to unowned fixtures as well. A broker taking a listing should inspect the premises carefully and determine whether any of the apparent fixtures, such as air conditioners or carpeting, are rented or being purchased under a UCC financing statement. The contract of sale should specify who is to own certain doubtful items, such as television antennas, solar devices, security systems,

blinds, satellite dishes, and mirrors. (See **emblemment**, **financing statement**, **personal property**, **trade fixture**.)

2. The permanent parts of a plumbing system, such as toilets and bathtubs.

**fixturing period** In a commercial lease situation, the period during which the lessee enters the premises to install improvements in preparation for opening its business.

**flag lot** A land parcel having the configuration of an extended flag and pole. The pole represents access to the site, which is usually located to the rear of another lot fronting a main street. A parcel may be subdivided into one or two flag lots, as shown in the following figure.



**flashing** Sheet metal or other impervious material used in roof and wall construction to protect a building from seepage of water.

**flat** An apartment unit or an entire floor of a building used for residential purposes.

**flat lease** A lease that requires periodic, equal rental payments to be made throughout the term of the lease. Whether payments are to be made monthly, annually, or otherwise is stipulated in the contract. (See **gross lease**.)

**flea market** A large building or open grounds, part of which is leased to individuals who use it to sell merchandise. A popular area for a flea market is a drive-in theater or large parking lot.

**flexible-payment mortgage** A loan that employs a computerized method of calculating the payments required by a pledged account mortgage. Often, interest rates are initially lower than ordinary mortgages and the initial payments are below those of an amortized mortgage and may result in negative amortization.

Under the flexible loan insurance payment mortgage, or FLIP, potential buyers can reduce their monthly payments by as much as 20 percent during the initial year of the mortgage and then graduate upward over the next five years. The buyer places the down payment in an interest-bearing savings account as pledged cash collateral. Only the lender can draw on the pledged account, and the monies can be used to supplement the buyer's monthly payment or to apply against principal if the borrower defaults or the property is sold. Private mortgage insurance covers the top 20 percent of the loan, thus reducing the lender's risk. Also called a pledged account mortgage. (See **negative amortization**, **variable-payment plan**.)

**flip** A transaction in which one party contracts to buy a property with the intention of quickly transferring (flipping) the property over to the ultimate buyer. (See **back-to-back escrow**, **trading on the equity**.)

**FLIP** Flexible loan insurance payment mortgage. (See **flexible-payment mortgage**.)