

**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WAGGONER CARR  
ATTORNEY GENERAL**

October 9, 1964

Hon. John H. Winters,  
Commissioner  
State Department of Public  
Welfare  
John H. Reagan Building  
Austin, Texas

Opinion No. C-330

Re: Whether a life estate  
in real property may  
be sold or mortgaged.

Dear Mr. Winters:

You request our opinion as to whether a life estate in real property may be sold or mortgaged.

A life estate tenant is entitled to all profits or income from the estate during his tenancy, but he cannot dispose of the corpus of the estate unless specifically authorized to do so. An implied power to dispose of the corpus by the life tenant of an express life estate does not exist in Texas. Hopson v. Shelton, 302 S.W.2d 268 (Tex.Civ.App. 1957, error ref. n.r.e.). However, a life tenant may sell his life estate interest and the purchaser may enter and hold the land until the death of the life tenant, at which time the estate terminates. May v. San Antonio, & A.P. Town-Site Co., 83 Tex. 502, 18 S.W. 959 (1892); Morris v. Eddins, 44 S.W. 203 (Tex.Civ.App. error ref., 1898); Strong v. Garrett, 148 Tex. 265, 224 S.W.2d 471 (1949); Trimble v. Farmer, 157 Tex. 533, 305 S.W.2d 157 (1957). Also, it is well accepted that a life tenant may mortgage his life estate. Moore v. Moore, 198 S.W. 659 (Tex.Civ.App. 1917, error ref.); Trimble v. Farmer, supra.

Therefore, it is our opinion that a life estate in real property may be sold or mortgaged.

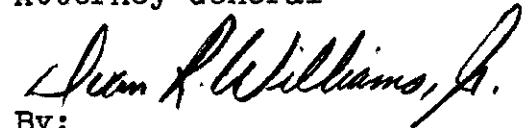
S U M M A R Y

A life estate in real property may be sold or mortgaged.

Hon. John H. Winters, page 2 (C- 330)

Yours very truly,

WAGGONER CARR  
Attorney General



By:  
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IRWjr:mkh

APPROVED:  
OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL  
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