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## Retirement, Mortgages and Accounting

### Taking over Premises Mortgage

#### Question:

Ten years ago, the partners took out a fixed rate, 25-year surgery mortgage. Each partner had an individual loan with joint and severable liability. The senior partner has now retired and the practice agreement states the continuing partners will buy out the retiring partner at the current market rate and her share will pass to them 'free from encumbrances'.

I became a partner three years ago, and was told I would be able to buy in on the retirement of the senior partner and arrange my own loan. I have now been informed that I am expected to 'take over' the retiring partner's loan, which is fixed for the next 15 years at a much higher interest rate than currently available. The next partner to retire will also leave his loan outstanding, and expects the continuing partners to take over this loan. The lender has given us redemption figures for the part repayment of the loan, but there is disagreement over who should make the repayment. Can you advise?

#### Answer:

It is always a tricky situation when the parties understanding procedure differs from the written agreement. Buying out a retired partner at market value is fairly standard and in many cases continuing partner, simply take over the loan. This happens where cost rent reimbursement rather than notional rent is paid and if there is a early redemption penalty. If the practice is getting cost rent, this will be based on interest rates of 10 years ago.

So if a partner joins who is to enjoy a share of that cost rent, it is only fair that he should take over the retiring partner's loan are albeit at a higher interest rate than currently available (after the cost rent is designed to repay that high interest rate).

The same could be argued where a property started on cost rent but transferred to notional rent when this exceeded the cost rent.

However, if the project was only ever undertaken on a notional rent basis, the rent reimbursement- and indirectly the value of the property- would have no direct bearing on the format of the loan. Essentially this is a matter for discussion and negotiation, although I am sure the argument of your senior partner would be that, while individual loans were taken out, they were in essence only acting as part of a partnership. That is they would not taken 25 year loans unless they believed an argument was in place to take over the loan.