

CERTIFICATION OF TITLE/FIRST REGISTRATION

CHECKLIST

This Checklist is to be used in conjunction with the Client Guide – Certification of Title under the *Certification of Titles Act* and First Registration under the *Land Titles Act* – dated November 2000.

For more particular details see Regulation 690 as amended by Ontario Regulation 515/93 under the *Land Titles Act* and Ontario Regulation 514/93 under the *Certification of Titles Act*.

I) INITIAL REVIEW OF SUBMISSION

Check that all of the following documents/plans etc. are included prior to reviewing the application: (see page 19 of the Client Guide)

- Copy of registered Application (Form 1)
- Copy of registered Notice (Form 2)
- Affidavit of Applicant (Form 4)
- Certificate of Solicitor (Form 5)
- Certificate of Surveyor (Form 6)
- Certificate of Solicitor (Form 7)
- Solicitor's Abstract of Title (Subject lands, adjoining lands, appurtenant easements)
- Copy of Patent
- Title tree
- Ownership Plan
- 3 prints of draft reference plan together with copies of all underlying and adjoining survey plans
- Draft parcel or draft certificate
- Sheriff's Certificate(s)

Please identify any deficiencies relating to the above items directly to the solicitor/surveyor indicating that the examination will be delayed until all items have been received. Please review all complete applications in order of receipt.

II) REVIEW OF APPLICATION

A) CERTIFICATES AND AFFIDAVITS

FORM 1 - APPLICATION FOR FIRST REGISTRATION

- Check that the Application has been registered.
- Check that the Application is in the prescribed form is dated and signed.
- Ensure the applicant's name is shown.

NOTE: If the applicant holds the lands "in trust", is a committee, or the applicants are partners, additional affidavits will be required (see page 11 of the Client Guide).

- Ensure the lands are described in reference to the draft plan. This description will be the one to be used in the final parcel or certificate. It should include a description of all appurtenant and servient easements.
- Ensure a copy of the draft plan is attached and it is signed by the surveyor

FORM 4 - AFFIDAVIT OF APPLICANT

- Check that the Affidavit is in the prescribed form is dated and sworn.
- Ensure the registration number of the Application is at the top of the form.
- Ensure the applicant's name and the brief description of the land are consistent with the Registered Application (Form 1).
- Ensure a signed copy of the draft plan is attached.
- If there are **unregistered leases** listed in paragraph 3 of the Affidavit, for a term not exceeding seven years and there is actual possession under them, in which the remaining period yet to run exceeds three years, the following note must appear on the parcel register:

NOTE: Title is subject to unregistered leases, if any, existing at the time of first registration of this land under the Land Titles Act, for a term not exceeding seven years where there is actual possession under the lease.

- If there is an item 6, being the statement regarding adverse possession, make note of it.

NOTE: If adverse possession is an issue, the submission should contain a bond or a covenant to indemnify the fund, being Form 53 or Form 54. The plan must also have an additional separate part showing the lands being adversely possessed and notice must be served on the registered **owner** and **any mortgagee/chargee** of the lands being dispossessed. A letter explaining the claim and which outlines the evidence in support of the claim must also be included.

FORM 5 - CERTIFICATE OF SOLICITOR

- Check the Certificate is in the prescribed form, is dated and signed by the solicitor.
- Ensure the registration number of the Application is at the top of the form.
- Verify the applicant's name and the brief description of the land are the same as in the Registered Application (Form 1).
- Ensure the solicitor lists the encumbrances **or states there are none**.
- Ensure the solicitor lists the defects **or states there are none**.
- Verify the solicitor has inserted a date in paragraph 5 (the final search date for the abstract of title).

FORM 6 - CERTIFICATE OF SURVEYOR

- Ensure the registration number of the Application is at the top of the form.
- Check that the Certificate is in the prescribed form is dated and signed.
- Verify that the applicant's name and the brief description are the same as on the Registered Application (Form 1).
- Ensure a dated and signed copy of the plan is attached.
- Compare item 5 of this Certificate (occupation of the land) with item 5 in the Applicant's Affidavit (Form 4) to ensure they are consistent.
- Review the exceptions listed in item 4 of the Certificate (adverse rights) to ensure that they are consistent with items number 4 and 6 of the Affidavit of the Applicant.
- Ensure the form is signed by the same surveyor who signed the draft plan and is dated **after** the registration of the Application.

FORM CONSISTENCY

- Ensure that all of the Forms are as prescribed and consistent with each other.
- Check that the applicant's name and that the geographic description of the lands are as shown on the applicant's deed(s) (which can be pulled from the solicitor's abstract) and that they are consistent with the Forms.

B) TITLE DOCUMENTS**CROWN PATENT**

- Ensure that you have a copy of the Crown Patent.

TITLE TREE

- Review the title tree(s) for the subject lands to ensure that the applicant has a good root of title. If he does not, check Form 4, the Applicant's Affidavit for a statement concerning adverse possession.
- Review the title tree for the appurtenant (together with) easements, if any, to ensure that the applicant has a good root of title.

SHERIFF'S CERTIFICATE(S)

- Check the Sheriff's Certificate(s) against the title tree to ensure that all owners within the 40-year search period have been searched. If there are applicable executions, these must be reflected in the parcel register or certificate of title. See page 7 of the client guide for further information.

SOLICITOR'S ABSTRACT

- Match the Solicitor's Certificate against the abstract to ensure that all the encumbrances and defects listed in the abstract are listed in the Solicitor's Certificate.

DRAFT PARCEL REGISTER/DRAFT CERTIFICATE OF TITLE

- Check the applicant deed(s) with the Draft Parcel for spelling and tenancy of owners.
- Match the encumbrances and defects shown in the Solicitor's Certificate to the draft parcel register or draft certificate of title.
- Ensure that the geographic description shown on the draft parcel/certificate is consistent with the description in the registered Application (Form 1) and the draft reference plan.
- With respect to the easements, match the geographic description (being the lot & concession or the lot & plan, the geographic township and/or the municipality) in the creating documents against the description in Form 1 and the draft parcel register. Ensure that the creating document registration number for the easements is used in the draft parcel register or certificate.
- Check the title tree to see if it shows that a railway company held the lands within the past forty years. If so, the following note (see top of next page) is required on the parcel register. If an applicant does not wish this note to appear on the parcel, a letter must be provided by the solicitor who carried out the search of the records in the office of the Registrar General in Ottawa. The letter must state when a search was made and that no instruments were recorded that affect the lands under application that was formerly owned by the railway company.

NOTE: Part of the above parcel, designated as PART... (Part number/numbers) ..., was formerly owned by ... (name of railway) ... and its successor ... (name of successor railway, if any) ... up until ... (date railway sold).

- Review the Affidavit of Applicant regarding item (e) under the Applicant's Affidavit (Form 4), with respect to unregistered leases. The following note must be added to the parcel register under certain circumstances (see Affidavit checklist).

NOTE: Title is subject to unregistered leases, if any, existing at the time of first registration of this land under the Land Titles Act, for a term not exceeding seven years where there is actual possession under the lease.

THE DRAFT PLAN

- Check the format of the plan using the standard Land Titles Reference Plan Checklist.
- Check the lands described in the title block and on the plan against the last transfer(s) to ensure that the applicant owns the lands under application (deed comparison). Verify that the geographic description in the deed matches the description in the plan title.
- Ensure that the instrument number for the applicant's lands as illustrated on the draft plan matches the instrument number for the last deed in the applicant's chain of title.
- Where there are easements, pull the creating documents for the easements from the solicitor's abstract and verify that the description in these documents matches the plan. Also verify that the schedule and face of plan quote the registration numbers of the documents which created the easements.
- Check the plan title and any easements illustrated on the plan, plan schedule (Part/parcel correlation) and the face of the plan against the description provided in the Draft Parcel for consistency.

B) NOTICE DOCUMENTS

FORM 2 - NOTICE OF APPLICATION FOR FIRST REGISTRATION

- Confirm from the copy of the registered notice received from the solicitor that the Notice has been registered.
- Check that the Notice is in the prescribed form and has been signed and dated.
- Ensure the registration number of the Application is at the top of the form.
- Ensure the applicant's name is the same as in the Registered Application (Form 1).
- Ensure the duplicate registered copy of the Notice refers to the plan attached to the Registered Application.

- Ensure the description in the notice is the same as that in the registered Application.
- Look for a date with respect to the notice period. If no date is shown, the solicitor should have secured consent and waivers instead of serving notice by registered mail.
- Ensure the solicitor's address is shown.

SERVICE OF NOTICE

- Pull the Solicitor's adjoining lands abstract, the abstract of appurtenant and servient easements and the Ownership Plan which illustrates adjoining owners who have been notified or signed consent and waivers out of the solicitor's submission and check the plan to ensure that everyone who should have received notice or signed a consent and waiver have been identified, including adjacent property that touched the subject lands at only one point.

NOTE: If the Applicant's Affidavit (Form 4) states that the applicant's title is based on length of possession, ensure that the plan has a separate part for the lands adversely possessed and notice was sent to the **registered owner and any mortgagee/chargee** of those lands.

- Ensure the names on the registered mail receipts or in the consent and waivers match the names in the adjoining lands abstract and shown on the (marked) plan.
- If notice was served by registered mail, check the returned envelopes to ensure they were "unclaimed". If returned "unknown", consult with the Regional Surveyor.
- Ensure any consent and waivers are in the prescribed form (Form 3) and they have a copy of the draft plan attached that is signed or initialled by the consenting party.
- Check the instrument numbers in the Solicitor's adjoining lands abstract against the instrument numbers shown on the plan. Note any inconsistencies and bring them to the solicitor's and surveyor's attention, for correction prior to the plan being deposited.

FORM 7 - CERTIFICATE OF SOLICITOR

- Ensure the registration number of the application is at the top of the form.
- Check that the certificate is in the prescribed form is dated and signed.
- Check that the correct applicant's name is on the form.
- Ensure item 2 (registration of notice) is correct.
- Check the date shown in item 3 (date of service) against the date shown on the postal receipt. Ensure the 30-day notice period has expired.
- Check items 5, 6 and 7 to determine if the applicant is entitled to be registered as the owner or, if there are outstanding objections that will require a hearing.