



Ontario

Ministry of  
Consumer and  
Commercial  
Relations

Property  
Rights  
Division

BULLETIN NO. 78025

DATE: May 19, 1978

TO:  
ALL LAND REGISTRARS

RELEASE OF INTEREST BY A BENEFICIARY  
THE LAND TRANSFER TAX ACT, 1974  
THE PLANNING ACT, R.S.O. CHAPTER 349

LIFE TENANTS AND REMAINDERMEN  
THE LAND SPECULATION TAX ACT

1. RELEASE OF INTEREST BY A BENEFICIARY

Land Registrars are advised that in a situation where a beneficiary under a will or an intestacy releases his interest in property being conveyed by the personal representative, the Land Registrar must ensure that the following affidavits are attached to the instrument in addition to any other required affidavits:

- (a) an affidavit of consideration under The Land Transfer Tax Act, made by the personal representative or by the releasing beneficiary or by their attorney, agent or solicitor; or an affidavit by the transferee or by the transferee's attorney, agent or solicitor.
- (b) where the land is in the land titles system, affidavits under The Planning Act, where applicable, by both the personal representative and the beneficiary who is releasing his interest.

It should be noted, however, that the above does not apply to the following situations:

- (i) where the beneficiary on an intestacy or under a will is releasing his interest to a person who would have been entitled to the property had the releasing beneficiary disclaimed his interest on the intestacy or under the will. In this regard affidavit evidence must be produced by the beneficiary or personal representative indicating -

- (1) that the release is equivalent to a valid disclaimer; and
  - (2) that the disclaimed interest in the property is being conveyed to the beneficiary entitled as a result of the disclaimer.
- (ii) where the beneficiary is merely consenting to a conveyance where the conveyance is for the purpose of distributing the proceeds of sale amongst the beneficiaries or is for the distribution of the property in specie amongst the persons beneficially entitled pursuant to The Devolution of Estates Act, R.S.O. 1970, Chapter 129.

In these cases, although affidavits under The Land Transfer Tax Act and The Planning Act are required, the releasing or consenting beneficiary need not be involved in the completion of these affidavits.

The following is an example of the application of the foregoing:


Beneficiary releasing his interest:  
 X dies testate leaving Y as his executor and A as his devisee. Y is attempting to register a conveyance from Y to Z (a person who would have not benefitted from a disclaimer) with A releasing his interest in the conveyance to Z. The following are required:

- (a) a Land Transfer Tax affidavit made by Y, or A or by Z (or by their attorney, agent or solicitors): and
- (b) Planning Act affidavits made by Y and A. (land titles requirement only)

## 2. LIFE TENANT AND REMAINDERMEN AS TRANSFERORS - THE LAND SPECULATION TAX ACT

We wish to further advise you that the Ministry of Revenue has decided that where a life tenant and the remaindermen of the fee have disposed of designated land, the Ministry will treat the life tenant as the sole transferor and accordingly only the life tenant is required to complete the affidavit of exemption under The Land Speculation Tax Act.

This Bulletin replaces Bulletin 78001.

  
 M. D. Godfrey  
 Assistant Deputy Director of Titles