

ONTARIO

Land Titles Act

R.S.O. 1990, Chapter L. 5., as amended

IN THE MATTER OF the title to land registered in the Land Registry Office for the Land Titles Division of Hamilton Wentworth (No. 62), as Pt. Lot 8, Concession 9, East Flamborough, as in VM 19609, Flamborough, City of Hamilton, PIN 17523-0245, registered in the names of David Binnie and Antonietta Binnie (the Property”);

AND IN THE MATTER OF errors in the legal description of the Property (the “Misdescription”) and recording errors relating to a life estate and certain liens registered on title to the Property (the “Recording Errors”);

AND IN THE MATTER OF an application by David Binnie and Antonietta Binnie, pursuant to section 57 of the *Land Titles Act*, for payment of compensation out of the Land Titles Assurance Fund for the legal costs incurred to rectify the Misdescription and the Recording Errors.

DECISION AND ORDER

David Binnie and Antonietta Binnie submitted an application for compensation from the Land Titles Assurance Fund for legal costs incurred to rectify errors on title to the Property they alleged resulted when title was administratively converted from the Registry Act system to the Land Titles system. The Recording Errors consisted of the registration on title to the Property of a life estate, that should have been registered on a different lot, and certain liens, that had been cut out at an earlier time by power of sale proceedings. The Misdescription consisted of errors in the legal description of the Property that resulted in an encroachment onto the adjoining property. These matters had come to the applicants’ attention when their neighbours sold the adjoining property and received a requisition from the purchaser to remove the encroachment. The neighbours’ solicitor contacted the applicants’ solicitor who proceeded to take the necessary steps to rectify title.

In view of the fact that the total claim amounted to \$1,741.10, I determined to hold a written hearing in this matter in order to contain further costs.

Upon review of the application and supporting materials, it was clear that the Misdescription existed prior to the administrative conversion of title to the Property to the Land Titles system. When the administration conversion took place, the erroneous description that was included in the deed to the applicants was simply reflected in the Land Titles parcel register. If the Property had remained registered in the Registry system, the applicants’ neighbours would have received the same title requisition and the applicants would have been contacted to rectify the encroachment created by the Misdescription. It appeared that the life estate and liens on the applicants’ title resulted from recording errors.

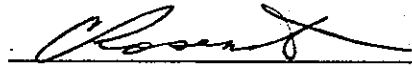
I therefore find that the applicants have satisfied the requirements for compensation set out in the *Land Titles Act* with respect to the Recording Errors only. Since the legal accounts were for services rendered in connection with all of the applicants’ title issues, I find that it is appropriate to reduce the charges where it appears appropriate to do so based upon the detail of the services provided in those accounts.

I therefore Order that the applicants be paid the sum of \$1,163.34 in full

satisfaction of their claim.

I further Order that the implementation of this decision and order be stayed for thirty days from the date hereof pending expiry of the appeal period.

DATED at Toronto, Ontario this 20th day of July, 2007.



Carolyn Rosenstein
Deputy Director of Titles

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