



Ministry of
Consumer and
Commercial
Relations

Registration
Division

Real
Property
Registration
Branch

BULLETIN NO. 96001

DATE: July 10, 1996

TO: All Land Registrars

LAND TITLES ACT

Notices under Section 71

There have been a number of questions posed relating to the procedures described in Bulletin 95005. Accordingly, this Bulletin will restate and clarify the procedures, and will replace Bulletin 95005. Bulletin 95005 is hereby revoked.

Section 71 of the Land Titles Act provides that the Director of Titles may authorize any person entitled to or interested in any unregistered estate, rights, interest or equity in land, to register a notice. With respect to the registration of such notices, this Bulletin has the following objectives:

- to create certainty regarding the registration of such notices;
- to reduce the amount of staff time required to deal with them;
- to provide an additional tool that will allow for easier registration by the client; and
- to ensure that the client receives consistent service in all offices.

The Land Titles Act requires notices under Section 71 to be submitted for registration using Form 16 of Regulation 690. These documents are generally complex and deal with many issues, sometimes unrelated to an interest in land. Many offices have found that, in reviewing such documents, they often have difficulty in ascertaining if, in fact, the documents deal with an interest in land. This means that the documents are subject to interpretation by RPR staff. The interpretation of complex documents can be very difficult, and, consequently, inconsistent decisions may be made regarding their acceptance for registration. This can be very frustrating for both our clients and LRO staff.

Another problem associated with these notices is that of removing them from title. To do so under the existing procedures, the land registrar must be satisfied that all the interests in the document have either expired or been released. This can be a difficult task, and it results in the land registrar being unable to remove many of these documents from title without a Court order. In recognition of this difficulty, Form 16 of Regulation 690 carries the provision that the Director of Titles may require a statement to be included in an application which gives the land registrar the authority to delete the notice from the parcel register after a specified period of time. This provision, however, is not frequently used.



In order to remedy these issues, this Bulletin provides a new form that may be used as a version of Form 16 of Regulation 690. The essential idea of this new form is that if the applicant's solicitor makes a statement that the document relates to an interest in land, and addresses the issue of removing the notice by stating a time period or event after which the notice can be deleted (see below), then it will not be necessary to obtain the approval of the Director prior to registration. Note that, contrary to Bulletin 95005, a time period may be specified that is greater than 5 years. See Appendix "A" for a sample of this form.

It is important to note that the purpose of this Bulletin is to provide a process in addition to that of Form 16 of Regulation 690.

The following is a summary of the conditions that are associated with an application to register a notice under Section 71:

(i) PREScribed FORM 16:

An application to register a notice may be in Form 4 (Document General), with Form 16 of Regulation 690 either attached to it, or the information shown in Form 16 incorporated into it.

An approval by the Director of Titles to register such a notice is not required for applications that relate to:

- a) a document that is registered on title, provided that the application is not an attempt to transfer, charge or lease lands,
- b) a previously authorized type of application (see Appendix "B"),
- c) an agreement that is specifically allowed to be registered by other legislation, most commonly being the Planning Act. In such cases, it is necessary to recite the specific statute and section in Box 8 of Form 4. Appendix "C" lists the sections of the Planning Act that have been recognized in the past by the Director; or
- d) a document that is in the form of Appendix "A" (see Item (ii)).

In all cases, other than those listed above, it will be necessary to obtain the approval of the Director.

It has not been the practise in the past for the Director to require that a time period be specified after which a notice can be deleted by the land registrar without application. For the reasons stated above, however, parties are strongly encouraged to do so. In the case of item (a) above, the lifetime of the notice must be linked to the lifetime of the document that is registered on title.

In keeping with existing procedures, the period of registration of any notice may, upon further application, be extended beyond the expiry date.

(ii) NEW FORM (Appendix "A"):

An application to register a notice may be in Form 4 (Document General), with the form contained in Appendix "A" to this Bulletin either attached to it, or the information shown in that form incorporated into it. Such an application must be made by the solicitor for the applicant and must state that the notice relates to an interest in land. It is not necessary to specify the nature of the interest.

A time period after which the notice will expire must also be specified, and the application must contain an instruction that authorizes the land registrar to delete the notice, after the expiration of the time period, without application. A time period may be indicated as follows:

- a) The time period may be defined by a specific date, or
- b) it may be related to the lifetime of an existing registered document, or
- c) the registrar may be instructed to delete the notice when presented with a release that has been executed by certain parties who have been stated in the notice as having the authority to execute such a release.

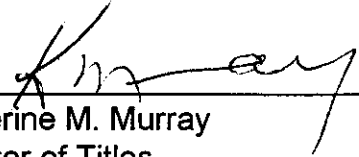
It may also be stated that the notice will be effective for an "indeterminate time", in which case it will not expire and cannot be automatically deleted from the register. In this case either a court order or the consent of all parties would be required to remove the notice. The reason for this, as stated above, is the difficulty involved in determining if the interests described in the notice have expired. Parties are encouraged, therefore, to provide a definite time period after which the notice will expire.

If the above requirements are met, then it will not be necessary to obtain the approval of the Director prior to registration.

The period of registration of the notice may, upon further notice, be extended beyond the expiry date.

A handwritten signature in black ink, appearing to read 'Ian Veitch', written over a horizontal line.

Ian Veitch
Director of Land Registration

A handwritten signature in black ink, appearing to read 'K Murray', written over a horizontal line.

Katherine M. Murray
Director of Titles

Encl.

APPENDIX "A"

FORM

Land Titles Act

Application to register Notice of an unregistered estate, right, interest or equity Section 71 of the Act

To: The Land Registrar for the Land Titles Division of

I,, am the solicitor for

I confirm that the applicants have an unregistered estate, right, interest or equity in the land described as all of Parcel / PIN

or

I confirm that the applicants are the registered owners or mortgagees, and I confirm that this document effects an interest in that land. (*)

The land is registered in the name of, and I hereby apply under Section 71 of the Land Titles Act for the entry of a Notice in the register for the said parcel.

I hereby authorize the Land Registrar to delete the entry of this Notice from the said parcel register without notice or application:

- (a) on or after the date
- (b) after years from the date of registration of this Notice,
- (c) upon the deletion of the following registered document(s):
.....
....., or
- (d) with the consent of the following party / parties:
.....
.....

or

This notice will be effective for an indeterminate time.

The address for service of the applicants is:

.....
.....

Dated

.....
Signature of the solicitor for the applicants

(*) To be used if the applicant is the registered owner or mortgagee.

APPENDIX "B"

The following types of notices have been approved by the Director of Titles for registration under Section 71 of the Land Titles Act. This list is not considered to be exhaustive.

- *An agreement which provides for a charge to secure the payment of a debt or the performance of an obligation (i.e., a charge given to secure the obligations under a cost-sharing agreement)*
- *An agreement which purports to grant an easement, whether or not the agreement includes a reference to existing easements*
- *Notice of Listing Agreement*
- *Non Profit Agreements*
- *Notice of Purchaser's Lien*
- *Notice of Vendor's Lien*
- *Notice of Option to Purchase*
- *Notice of Agreement Amending Charge*
- *Notice re: Creation of Lien under Homes for the Aged and Rest Homes Act.*
- *Notice of Right of First Refusal*
- *Postponement of Execution to a Charge under Section 71*
- *Occupancy Agreement*
- *Notice of Lodgement*
- *Notice of General Assignment of Rents*

APPENDIX "C"

The following sections of the Planning Act, RSO 1990, have been recognized by the Director of Titles as authorizing a registration of a notice under Section 71 of the Land Titles Act:

- Sec. 28(10): *Community Improvement Agreements*
- Sec. 31(7): *Property Standards Orders*
- Sec. 33(7): *Demolition Permit Conditions and Liens*
- Sec. 37(3): *Increased Density Agreements*
- Sec. 41(7)(c) & 41(8)(b): *Site Plan Agreements*
- Sec. 51(26) & 51(27): *Subdivision Agreements*
- Sec. 53(12) & 55(4): *Severance Consent Agreements*