

ORDER OF THE DIRECTOR OF TITLES

LAND TITLES ACT R.S.O. 1990, CL. 5, AS AMENDED

I, Katherine M. Murray, Director of Titles, hereby order that:

IN THE MATTER OF the *Land Titles Act*, R.S.O. 1990, Chapter L.5, subsection 163.1 (1.1), clause 57(4)(b) and clause 57(4.1)(b):

WHEREAS pursuant to subsection 163.1(1.1) of the *Land Titles Act*, the Director of Titles may specify what constitutes the requisite due diligence for the purpose of clause 57 (4)(b) and clause 57 (4.1)(b);

AND WHEREAS the Director may, at any time, vary any of the due diligence requirements specified under this Order that a person must demonstrate for the purpose of clause 57(4)(b) or clause 57(4.1)(b) of the *Land Titles Act*, having regard to the circumstances of the case;

AND FOR THE PURPOSE OF THIS ORDER the following words will have the corresponding meanings:

"person" – means the claimant as defined in subsection 59(2) the *Land Titles Act*, R.S.O. 1990 Chapter L.5, as may be amended from time to time; and

"property" – means the land or an interest in land that is the subject of the application for compensation from the Land Titles Assurance Fund;

IT IS HEREBY ORDERED THAT due diligence for the purpose of clause 57(4)(b) will require a person who is a mortgagee, chargee or a lender to demonstrate that the person has taken reasonable steps necessary in the circumstances of the case in order to:

- (a) verify the identity of the chargor or mortgagor who is charging or mortgaging the property; and
- (b) verify that the registered owner is, in fact, transferring, charging or mortgaging the property;

IT IS FURTHER ORDERED THAT due diligence for the purpose of clause 57(4)(b) and clause 57(4.1)(b) will require a person who is a purchaser in good faith for valuable consideration to demonstrate that the person has taken reasonable steps necessary in the circumstances of the case in order to verify that the registered owner of the property is in fact transferring the property;

IT IS FURTHER ORDERED THAT, where the person is a mortgagee, chargee or a lender, reasonable steps necessary to demonstrate that the person has verified the identity of the chargor or mortgagor who is charging or mortgaging the property may include:

1. conducting or causing the person's agent to conduct an in person meeting with the chargor or mortgagor within a reasonable time prior to the date of the charge, or mortgage of the property;

2. obtaining, from the chargor or mortgagor at the time of signing of the mortgage loan application, one piece of original government issued photo identification that must contain the name, date of birth and address of the mortgagor and one additional piece of original identification that provides the name of the chargor or mortgagor;
3. making and retaining copies of the front and back of the identification provided by the chargor or mortgagor;
4. instructing the person's agent to retain copies of the front and back of the identification provided by the chargor or mortgagor;
5. verifying the information supplied by the chargor or mortgagor in the mortgage loan application by checking the employment references and by ensuring that the information contained in a consumer report relating to the credit information of the chargor or mortgagor corresponds to the information in the mortgage loan application; and
6. satisfying any other requirement that is just or appropriate in the circumstances of the case;

IT IS FURTHER ORDERED THAT, where the person is a mortgagee, chargee or a lender, reasonable steps necessary to demonstrate that the person has verified that the registered owner of the property is in fact transferring, charging or mortgaging the property may include:

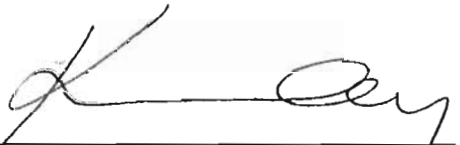
1. obtaining a copy of the Agreement of Purchase and Sale, whereby the chargor or mortgagor agreed to purchase the property;
2. conducting or causing the person's agent to conduct an onsite appraisal of the property within a reasonable time prior to the date of the transfer, charge or mortgage of the property;
3. visiting or causing the person's agent to visit the property within a reasonable time prior to the date of the transfer, charge or mortgage of the property;
4. instructing the person's agent to complete the appropriate searches of title affecting the person's interest in the property;
5. reviewing or causing the person's agent to review, the Multiple Listing Service (MLS) history or other sale listing, if any is available, and making reasonable inquires into the sale listing; and
6. satisfying any other requirement that is just or appropriate in the circumstances of the case;

AND IT IS FURTHER ORDERED THAT, where the person is a purchaser in good faith for valuable consideration, reasonable steps necessary to demonstrate that the person has verified that the registered owner of the property is in fact transferring the property may include:

1. instructing the person's agent to complete the appropriate searches of title affecting the person's interest in the property;
2. providing the person's agent with a copy of the Agreement of Purchase and Sale, whereby the person agreed to purchase the property;

3. visiting or causing the person's agent to visit the property within a reasonable time prior to the date of the transfer of the property;
4. reviewing or causing the person's agent to review, the MLS history or other sale listing, if any is available, and making reasonable inquires into the sale listing; and
5. satisfying any other requirement that is just or appropriate in the circumstances of the case.

Dated at Toronto, this 25th day of May, 2007.



Katherine M. Murray
Director of Titles

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