



The Register

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*The staff at
West Coast wish
you
all the best of the
Holiday Season
& a Happy New
Year!*

STATUTORY
HOLIDAYS
2009

The Court Registries, Land Title Offices and all Government Registries will be closed on the following dates in the coming year 2009:

- January 1 (New Year's Day - **Thursday**)
- April 10 (Good **Friday**)
- April 13 (Easter **Monday**)
- May 18 (Victoria Day - **Monday**)
- July 1 (Canada Day - **Wednesday**)
- August 3 (BC Civic Holiday - **Monday**)
- September 7 (Labour Day - **Monday**)
- October 12 (Thanksgiving - **Monday**)
- November 11 (Remembrance Day - **Wednesday**)
- December 25 (Christmas - **Friday**)
- December 28 (For Boxing Day - **Monday**)

E-Filing

U P D A T E

Infrastructure Risk

The Electronic Filing System (EFS) was introduced in 2004 as an **alternative option** to the traditional paper method of filing land title documents. However, as stated in our last three newsletters, the most recent Business Plan of the Land Title and Survey Authority (LTSA) sets out in their “Performance Measures Chart” that by the year 2010/11, EFS uptake will reach 85% “due to mandatory EFS”.

Compulsory electronic filing is a risk that B.C.’s legal professionals can ill afford. No computer system is fail-safe. This was demonstrated most recently on November 10, 2008 when BC Online went down just before 11:00 a.m., rendering the land titles system inaccessible for submitting online filings.

The LTSA issued an emergency procedure late in the day recommending that users e-mail or fax the 1st page of their documents or courier their documents to the Land Title Office by 4:00 p.m. (*to be followed by true paper copies with ink signatures*). The bulletin was posted on the LTSA website at 3:30 p.m., allowing users only 30 minutes to resolve the problem of not being able to file their documents through EFS.

There needs to be a fallback system in case of inevitable computer glitches, whether it is the EFS or BC Online systems that crash or a firm’s internal computer systems that fail. **That fallback system is paper filing.**

Rather than waiting for emergency procedures to be implemented, having the **option to paper file** will always give you plenty of time to choose the filing method that’s best for you and your client.

Let’s keep our options open.

Land

U P D A T E

Waiver of Right of First Refusal

If a right of first refusal (RFR) is registered on title, the Land Title Office will not register a freehold title in the name of a person other than the RFR holder unless a **discharge** of the RFR is filed **or** unless the RFR holder **waives** the rights under it “to the extent necessary to permit registration of the new freehold title in the name of that other person”.

On August 28, 2008, the Land Title Office issued a bulletin with regards to a practice change in the requirements for filing a *waiver of right of first refusal*.

Form C as a Charge

The **former practice** was to file the waiver of right of first refusal as a **charge**. On the Form C, Item 4(b) – *Express Charge Terms – Annexed as Part 2* was selected and the standard wording for a waiver of right of first refusal was attached to the Form C under the heading “Terms of Instrument - Part 2”.

Form C as a Release



The **new practice** is to file the waiver of right of first refusal as a **release**. On the Form C, Item 4(c) - *Release - There is no Part 2 of this instrument* is selected and the words “See Schedule” are added to Item 7. The standard wording for a waiver of right of first refusal (as outlined in the Land Title Practice Manual, Part 16.50 on Page 16-10) is included on the Form E schedule under the heading “7- *Additional or Modified Terms*”.

Transition Period

The Land Title Office has advised there will be a **6 month** transition period for any waiver of right of first refusal submitted following the *former practice* until February 2009.

Endorsement on Title

Upon submission, the Form C will be noted on the current title as a pending “waiver of right of first refusal”. Upon final registration, the right of first refusal will be carried forward to the new title with the following endorsement of the waiver in the Remarks column of the right of first refusal: “*Waiver as to Transfer # _____ only, See (doc # of waiver).*”

Practice Bulletin No. 0208

If you would like a copy of Practice Bulletin No. 0208 which includes acceptable wording for the waiver of right of first refusal, please contact Cyndy Patterson in our Client Services department at 604.659.8610 or toll free at 1.800.553.1936, or e-mail your request to info@wcts.com.

Parcel Identifier Number Alert

If a document has an incorrect parcel identifier number (PID) and is marked up against that PID number, the Land Title Office will issue a defect notice stating that the PID number does not match the legal description. Even if the legal description on the document is correct, the document will have to be **completely withdrawn**.

The Land Title Office will not allow a PID number to be amended on a pending document. If the Land Title Office allowed a PID number to be amended but a search has been done on the correct PID number before the amendment was made, the search would not have shown that pending document.

Filing Tip

A notarial seal will not image. If a notary public certifies a document and only affixes their notarial seal, the LTO will defect the document. The words “Notary Public” must always be printed beneath the notary public’s signature.

LTSA Staff Changes

Larry S. Blaschuk has been appointed the new **Registrar of Land Titles** for the *New Westminster* Land Title Office effective September 29, 2008. Mr. Blaschuk joined the LTSA from private practice as a solicitor in Vancouver. Earlier in his career, he was Corporate Counsel with West Coast Title Search.

Ian C.B. Smith, who previously held the combined position of Registrar of Land Titles for the New Westminster Land Title Office and Director of Land Titles, has been appointed the Authority's **Special Advisor on Real Property** (in anticipation of his retirement in the spring of 2009).

Craig D. Johnston, former Registrar of Land Titles in Victoria and Kamloops, has been promoted to the position of **Director of Land Titles** effective November 10, 2008.

Andrea M. Brace has been appointed **Registrar of Land Titles** for the *Victoria and Kamloops* Land Title Offices effective November 10, 2008. Ms. Brace joined the LTSA from the Vancouver Island Health Authority where she worked as General Counsel and prior to that, with the Greater Vancouver Regional District as Corporate Solicitor.

MHR

U P D A T E

Transfers to Executor or Administrator

When transferring a manufactured home **into** and **out of** the name of an Executor or Administrator, the documents must be presented to the Manufactured Home Registry in **paper form**, originally signed. *There is no online option for this type of registration.* Registration usually takes up to 48 hours unless it is submitted on a priority service (additional \$100 disbursement).

Corporate

U P D A T E

Priority Service

The Corporate and Manufactured Home Registries offer **priority service** for paper filings that cannot wait in the normal work queue to be processed. For an **additional \$100 per service request**, your documents will be processed ahead of other documents in the queue.

The standard turnaround time for priority service is within 24 hours. Often the work is completed within a few hours. However, payment of the priority fee does not guarantee your documents will be processed within a certain period of time. The Registry may not even accept priority requests during peak workload periods or if staff resources are unavailable.

The Corporate Registry will accept many filings submitted on a priority basis in *fax or e-mail* form when accompanied by a lawyer's letter of undertaking to provide the original documents. However, the Manufactured Home Registry will only accept documents submitted in *original* form. Any exceptions to this would have to be discussed by the lawyer directly with the Manufactured Home Registry.

Court

U P D A T E

Supreme Court Scheduling in 2010

There will be some disruption to the Supreme Court schedule during the 2010 Olympics, particularly in Vancouver and New Westminster. It is important to keep this in mind when scheduling your future trial dates.

No **criminal jury trials** will be scheduled to deliberate from **February 6 to March 1, 2010** (due to the expected unavailability of hotel and motel rooms in Vancouver and the outlying areas).

There will be no **criminal trials** requiring *police witnesses* from **February 6 to March 1, 2010** (due to police officers from many cities and municipalities throughout the province being deployed from their usual duties to security at the Olympics).

As a number of Olympic events are scheduled to take place in downtown Vancouver, available parking will also become a critical issue for litigants, counsel, witnesses, jurors (for civil trials) and spectators who may have a difficult time finding parking and appearing in Court on time.

West Coast

U P D A T E

Weather Warning

Service to Victoria



It's that time of year again. The weather is very unpredictable and can often affect both our *midday* service and *overnight* service to Victoria. Service via Helijet or Harbour Air can be very uncertain in the Fall/Winter weather, which includes fog in either harbour.

If you require filing/registration on a specific day, it is best to get your work to our Victoria office **the day before the deadline**, or at least to send it in our *overnight* bag which is less affected by weather. Work coming *overnight* to Victoria must be in our Vancouver office by 4:00 p.m.

Overnight Couriers



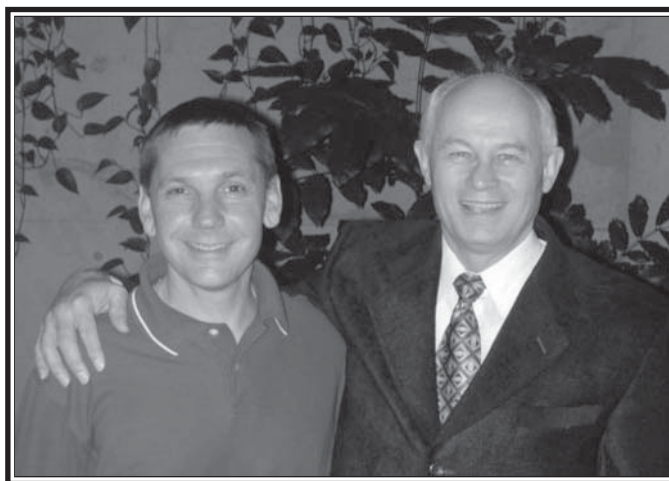
Our *overnight couriers* usually provide next day service to Kamloops and most other locations in BC and across Canada. However, during winter months, road conditions and adverse weather can cause unexpected delays and longer turnaround times. As well, we have noticed their services are not always reliable.

If you require filing/registration on a specific day, please send your documents to us **at least two days before your deadline for filing**. On the invoice, please indicate your filing instructions and the date of filing.

Staff Anniversary

On November 14th, 2008, **Stuart Scharf**, our Court Manager in our *Vancouver* office, celebrated his 20th Anniversary with West Coast. On behalf of Wayne Crookes, Owner/President and all the staff, we would like to congratulate Stuart for his many years of dedicated service and say:

"Thank You For a Job Well Done!"



Stuart Scharf and Wayne Crookes, Owner/President

Asked & Answered Process Serving ~ Questions ~

Question:

Can West Coast serve a Subpoena to Debtor?

Answer:

Yes. However, if the Debtor does not show up at Court for the hearing, a warrant **cannot** be issued for any service done by a process server. In order to be able to obtain a warrant for non-attendance, the service must be done by the **Sheriffs**.

* * * * *

Question:

I need to serve a Subpoena on a witness. How much should I provide for witness fees or conduct money?

Answer:

To calculate these fees, refer to Schedule 3 of Appendix C of the BC Supreme Court Rules, or the distance and calculation charts in the "Practical Guide to Process Serving in British Columbia", prepared by West Coast and available upon request *at no charge*.

"You asked. . . We answered"

Requests by E-Mail

E-mail is quick, easy and direct from you to us and vice versa. Each of our offices has an established computer that is monitored throughout the day to ensure your e-mail requests are processed in a timely manner.

Our central e-mail address is info@wcts.com. From this address, your work will be forwarded to the appropriate office where the work will be processed.

In addition to getting information back to you quickly by phone or fax, we're also happy to e-mail you. Just note your e-mail address in the space provided on our invoice and mark the e-mail box.

Newsletters and Updates by E-Mail

We are very encouraged by our clients' positive response to our environmental invitation to "*Help Us Go Green*".

If you would like to receive our newsletters and updates **via e-mail**, please contact Cyndy Patterson in our Client Services department at 604.659.8610 or toll free at 1.800.553.1936 or via e-mail at info@wcts.com and ask to be added to our e-mail list.

The Register

The Register is the newsletter of **West Coast Title Search Ltd.** It is available free of charge and we encourage you to use the information to assist you with your work.

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