



# The Register

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## E - Filing

U P D A T E

### The Choice Should Be Yours

In the last two issues of our newsletter, we addressed the subject of **compulsory electronic filing of land title documents**. This is an important subject that warrants further discussion.

The Electronic Filing System (EFS) was first introduced by the Land Title and Survey Authority (LTSA) in 2004 as an alternative **option** to the traditional paper method of filing land title documents. However, the most recent Business Plan of the LTSA sets out that EFS uptake will reach 85% “*due to mandatory EFS*” by the year 2010/11. (Performance Measures Chart - page 16)

#### EFS Statistics

The LTSA states that the use of EFS has increased since its introduction in April 2004 and will continue to increase. However, as of August 2008, only 40% of LTSA's customers use EFS to file their land title documents. In *New Westminster*, the percentage of documents that are e-filed is even less. This means that **60% of all land documents are still paper filed**.

#### It's Still Not Too Late

We believe that paper and electronic filing should not only continue to be available to you, but that both should be offered as equal options. **The choice should be yours**, not the result of an ultimatum.

We have been advised by the LTSA that compulsory e-filing would only occur after “demonstrated support of key stakeholders was in place”. This implies that if stakeholders do not support a move to compulsory e-filing, then both electronic and paper filing will continue to be offered by the LTSA.

If you believe that **the choice should be yours**, write a letter now and let your voice be heard. The more interest you express to the government, the more likely you will be able to maintain paper filing as an option.

## Your Voice Counts

If you believe that electronic filing should remain optional, contact:

**The Hon. Wally Oppal, Q.C.**  
*Attorney General*  
Ministry of Attorney General  
Room 234, Parliament Buildings  
Victoria, BC V8V 1X4

**The Hon. Stan Hagen**  
*Minister of Agriculture and Lands*  
Ministry of Agriculture and Lands  
Room 028, Parliament Buildings  
Victoria, BC V8V 1X4

and your MLA.

A complete list of MLAs for British Columbia is available at [www.leg.bc.ca/mla](http://www.leg.bc.ca/mla).

*We would appreciate your sharing with us any correspondence you may have with the Ministers and your MLA on this critical subject.*

## Compulsory E-Filing Concerns

We are very pleased with the number of letters that have been written in response to the e-filing articles in our newsletters. The reasons why e-filing should remain optional have been unique, thoughtful and legitimate.

Following are some of the concerns expressed in letters that have been sent to the Hon. Wally Oppal, *Attorney General* and the Hon. Stan Hagen, *Minister of Agriculture and Lands*:

- “There needs to be a fallback system in case of inevitable computer glitches”.
- “Our experience...tells us that the culture of electronic filings, transmissions or payments does attract, stimulate and facilitate fraud, improper practices and poor practices”.
- “If electronic filing becomes mandatory, I will simply stop doing land title work for my clients”.
- “The professional relationship developed between the title search agency and its personnel vastly improves the ability to communicate with the LTO.”
- “My clients rely on me to provide legal services at an affordable price....since the LTSA agents are no longer available to answer questions, I rely on my title search agents to advise me on unusual procedures, to vet documents, and to make sure the transaction takes place on the required date”.

### Speak up Today

If you have concerns about the impact compulsory e-filing will have on your practice, and believe that you should have the right to choose, there is still time to make your voice heard.

*Every letter counts.*

## Land

## UPDATE

### Provisional Indefeasible Title

When a **duplicate** indefeasible title has been lost, destroyed or cannot be produced, the registered owner must apply for a *provisional* indefeasible title. The process is time-consuming and involves two separate steps, usually several weeks apart.

#### Filing Affidavits

- The registered owner must first file proof of loss or destruction *by way of affidavit*.
- If the duplicate indefeasible title passed through several hands, then affidavits *from each party* will be required.
- If the affidavits include all information necessary to prove loss or destruction (*See Part 13, Section 193 on page 13-4 of the Land Title Practice Manual*), the Registrar will supply the applicant with a **form of notice** to be published in the B.C. Gazette for a specified number of insertions. **Note:** The Registrar may dispense with the advertisement in some specific cases.
- The affidavits are filed with a filing letter and assigned a registration number. *LTO fees are \$50.00.*
- The **form of notice** is returned to the applicant to prepare for the second step.

#### Proof of Advertising

- After filing the affidavits at the Land Title Office, the applicant must complete the **form of notice** with the *title number, legal description and name and address of the registered owner* and publish the notice in the B.C. Gazette for as many insertions as specified by the Registrar.

- After the notice has been published, the registered owner or his or her agent must then prepare a statutory declaration, *with the pertinent page from the B.C. Gazette attached as an exhibit*, to prove that the advertising requirements have been met.
- The statutory declaration is then submitted with a filing letter directly to the Registrar. No further registration number is assigned. *LTO fees are Nil.*
- *Since computerization, a hard-copy of the provisional indefeasible title is not issued.* If satisfied that the applicant has met the advertising requirements, the Registrar will simply cancel the duplicate indefeasible title and the computer title will show “**Duplicate Indefeasible Title: None Outstanding**”.

**Note:** The Registrar will not accept a *transfer, mortgage or right to purchase* until the duplicate indefeasible title is returned to the Land Title Office or until application for a provisional indefeasible title has successfully been made.

### Change of Address

The most common way to change an address on title is for the registered owner to file a **Form 15 - Notice of Change of Address**. Either the registered owner or the registered owner's *solicitor or agent* may sign the application. The signature(s) do not have to be witnessed nor officer certified. *LTO fees are nil.*

When a registered owner in **fee simple** applies to change their address, the Land Title Office **will raise a new title** under the registration number assigned to the Form 15, showing the new address.

When a registered owner of a **charge** applies to change their address, the Land Title Office will endorse “*See BB\_\_\_\_\_ for change of address*” under the Remarks relating to that charge. **A new title will not be raised.**

**Court**

U P D A T E

**Marriage Documents for Divorce Files**

To commence a divorce action, the Court requires the **original** marriage document issued by the Vital Statistics department of the country where the parties were married. A certificate given by the church, temple or secular marriage commissioner is not acceptable.

If the marriage document is in a **foreign language**, you must obtain a *translation* of the document, as well as an *affidavit* sworn by an accredited translator setting out his/her qualifications and the languages fluently spoken. The affidavit must be in the correct B.C. Supreme Court form and both the original marriage document and the original translation must be exhibited in the affidavit.

**Exceptions to Providing Original Document**

- If the party commencing the action does not have a marriage document, leave to file without can be granted in some circumstances. If a *Certificate of Pending Litigation* accompanies the Writ of Summons and Statement of Claim, the documents will be accepted.
- If there are concerns for the *welfare of children or spouse*, usually leave to file immediately is granted when a "Without Notice" Notice of Motion and Notice of Hearing is filed to bring the application into Chambers immediately.
- If it is impossible to retrieve the marriage document because of *war or politics*, the Court will require an affidavit sworn by the plaintiff explaining what attempts were made to obtain the marriage document and why it is impossible. Additional affidavits sworn by 2 people who attended the wedding, with photos exhibited, will help allow the Court to grant leave.

**Central Divorce Registry**

Before a divorce file can proceed, a Divorce Registration Form must be sent to the Central Divorce Registry in Ottawa. A search will be done there to verify that no other divorce action has been commenced anywhere in Canada. Ottawa will then return a notice to the Court granting clearance so the divorce can proceed. Clearance takes about 8-10 weeks.

**Note:** If another action does exist, one party must withdraw their action before the divorce can proceed.

**Changes to BC Supreme Court Rules**

We expect that, commencing in 2010, the Supreme Court Rules will be completely overhauled. For several years now, the Civil Justice Reform Working Group has been in the process of creating new Rules of Civil Procedure for the BC Supreme Court. The concept draft of the new Rules was completed in late 2007, and in May 2008, a "Work-in-Progress Draft" was created. The new Rules are a dramatic change from what we are used to. The consultation period ends December 31, 2008.

To view the proposed draft and to submit any submission or comments, visit the BC Justice Review Task Force website at [www.bcjusticereviewforum.ca/civilrules/](http://www.bcjusticereviewforum.ca/civilrules/).

**Trial Scheduling**

There will no regular Chambers available on **November 12-14th, 2008** as there are Judges/Masters conferences on those dates. Only emergency applications will be heard and those must be arranged through the Court Registry first. For more information, go to the *Registry News & Updates* section of our website ([www.wcts.com](http://www.wcts.com)) and click on *Memos, Updates & Notices*. The link to Trial Scheduling is provided there.

**Corporate**

U P D A T E

**Company Change of Address**

A Notice of Change of Address is effective at 12:01 a.m. *on the day following the filing date*. Once the Notice of Change of Address is filed, you will not be able to file any further documents for the company until the change of address becomes effective.

If you must file another document before the Notice of Change of Address becomes effective, you must **paper** file a Notice of Withdrawal (Form 19). **Immediate** withdrawal will require priority fees of \$100.00 plus the \$20.00 filing fee, a letter of undertaking, and the Form 19 **faxed** for registration. The **original** Form 19 must follow to the Registry.

Once the Notice of Change of Address has been successfully withdrawn (the online ledger will show this), you may file your next registration. You will then have to re-file the Notice of Change of Address and your account will be debited an additional filing fee of \$20.00.

**Pick-up of Certified Corporate Documents**

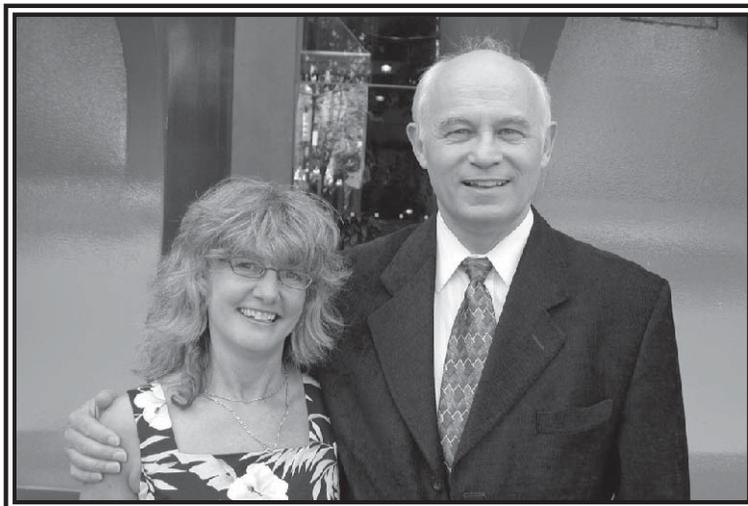
West Coast is pleased to pick up the certified copies of registered documents generated after the online registration is complete.

When registering online, click the button for "Pick up at the Corporate Registry" and enter *West Coast/Firm name/Contact/File reference (e.g. West Coast/ABC Law Firm/Ann/1234)*

When the documents are put in our stacker (usually the next business day), we will return them to you on your next available run. Our fee for this service is \$15.00 *provided all necessary client information is provided*.

## Staff Anniversary

On August 2<sup>nd</sup>, 2008, Alison Hughes, in our Vancouver Court Department, celebrated her 20<sup>th</sup> Anniversary with West Coast. On behalf of Wayne Crookes, Owner/President and all the staff, we would like to congratulate Alison for her many years of dedicated service and say "Thank You For a Job Well Done!"



Alison Hughes and Wayne Crookes, Owner/President

### Asked & Answered ~ A Land Question ~

#### Question:

*If property is held in joint tenancy and both joint tenants have died, do you still have to transmit the property to the deceased joint tenant first?*

#### Answer:

**No.** This is one of the few instances where the Land Title Office allows you to skip a filing step. The proper procedure is to transmit the whole property to the personal representative of the **last survivor of the joint tenancy**. The following documentation is required:

- Court certified copy of Letters Probate (*Executor*) or Letters of Administration (*Administrator*) for the **last joint tenant** who died;
- Court certified copy of the List of Assets, Liabilities and Distribution;
- Original death certificate of the **first joint tenant** who died;
- Form 17 application;
- Property Transfer Tax Return (*Special*)-Exemption Code **09**.

*"You asked... We answered."*

### E-Mail Service

***info@wcts.com***

In addition to sending work requests and replacement pages via our run system or by fax, these may be sent via e-mail to ***info@wcts.com***. These requests will be received in our **New Westminster** office and forwarded to the department where your work will be processed.

When sending replacement pages for a registration file, please send them to us as an *attachment* to the e-mail, rather than as part of the body of the message.

We are most familiar with **Word** or **WordPerfect** and therefore prefer them to Excel or PDF. We can usually work with, modify and print any type of document if necessary, but we cannot make any changes to PDF documents if there are further amendments to be made.

We will always e-mail confirmation, *generally within five minutes*, so that you will know your request has been received. If you do not receive confirmation from us **within 15 minutes**, please contact Marian Bragg or Linda Gomez at 604.659.8600 or toll free at 1.800.553.1936.



*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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