



The Register

The Newsletter of West Coast Title Search Ltd.

NUMBER 84 / 11

REGISTRY SERVICES • PROCESS SERVING

DECEMBER 2011

In This Issue

BC Registry Update

Online Accounts.....3

Court Update

E-File or Manual File2

Late Filings
at Outlying Courts3

Federal Corp Update

NFP Act3

Land Update

Foreign Companies
with Assumed Names2

Form 33 - Certificate
of Pending Litigation2

Enduring
Power of Attorney.....2

Required E-Filing 1

Vital Stats Update

Pick-Up No Longer Available.....3

West Coast Update

Happy Holidays4

Statutory Holidays 20123

Weather Warning.....4

LAND UPDATE

Required E-Filing

Under the provisions of s. 168.111, the Director of Land Titles can direct that a class of documents or plans only be submitted electronically to the Land Title Office.

Phase 1 – January 16, 2012

Phase 1 of required E-Filing was announced March 11, 2011 and will become effective January 16, 2012. Phase 1 includes **Form A-Transfer**, **Form B-Mortgage**, **Form C-Charge**, and **Form C-Release**.

Phase 2 - May 7, 2012

Phase 2 was announced on October 31, 2011 and will become effective May 7, 2012. Phase 2 includes a broad variety of additional land title applications, the most common of which are:

- Claim of Builders Lien;
- Form 17 (including supporting documents);
- Form A - Freehold Transfer of Life Estate, Determinable Fee Simple and Fee Simple on Condition;
- Strata Plan not requiring local government or provincial approving officer's approval;
- Strata forms and applications under the *Strata Property Act*;

- Reference Plan pursuant to s.100 of the *Land Title Act*;
- Reference Plan, Explanatory Plan or SRW Plan filed with a Form C - Charge or Release;
- SRW Plan filed without a Form C - Charge.

Exceptions to Required E-Filing

Land Title forms specified for electronic filing may continue to be filed in **paper** form provided they fall within certain exemptions. Some exemptions are:

- Applications requiring **preliminary inspection**, e.g., Caveat, Certificate of Pending Litigation (*Phase 2*) ;
- Claim of Builders Lien or Release of Claim of Builders Lien filed **by the Lien Claimant** in person at the LTO or by mail (*Phase 2*);
- Land Title forms filed **by the registered owner** in person at the LTO or by mail and where the owner is identified as the applicant on the Land Title form (*Phase 1 & Phase 2*);
- Land Title forms submitted as part of a package where one or more documents are not required to be filed electronically (*Phase 1 & Phase 2*);
- A paper Land Title form or Claim of Builders Lien executed prior to the effective date of required E-Filing (*Phase 1 & Phase 2*);

- Statutory forms or other filings, other than a plan, under the *Strata Property Act*, filed by Strata Corporations with **7 or fewer strata lots** (*Phase 2*).

For a full list of exemptions, please refer to *Director's Requirements DR 06-11* available on the Land Title and Survey Authority website www.ltsa.ca or by contacting Cyndy Patterson at 604-659-8610 or toll free at 1-800-553-1936 or by email at info@wcts.com.

Paper Release of Mortgage and Assignment of Rents

Under Phase 1 and Phase 2, applicants are still able to electronically file a copy of an executed **paper** Form C-Release (*of Mortgage/Assignment of Rents*) by attaching it to an **electronic** Form 17-Cancellation of Charge, Notation or Filing. *This ability will cease to be available as part of a future Phase.*

Subsequent Phases

The content and timelines for subsequent Phases of required E-Filing are expected to be announced beginning in spring 2012. Subsequent Phases may include:

- Subdivision Plans
- Strata Plans requiring approving officer approval
- Other plans requiring approving officer approval

Enduring Power of Attorney

The Land Title Office has now determined that the following requirements **must** be met for **enduring** powers of attorney made after September 1, 2011:

- The **adult's** signature must be witnessed in accordance with Part 5 of the *Land Title Act*. In most cases, the adult's signature will be witnessed by a lawyer or a BC Notary Public, with **officer certification**.

- If the **adult's** signature is not witnessed by a lawyer or a BC Notary Public, the adult may sign in the presence of **two witnesses and both witnesses in the presence of the adult**. *In this case, affidavits of witness will be required for both witnesses;*
- The **attorney** must also execute the Power of Attorney document. If the attorney's signature is not witnessed by a lawyer or a BC Notary Public, then the attorney must sign in the presence of **two witnesses**. *In this case, affidavits of witness will be required for both witnesses;*
- In addition to executing the Power of Attorney, the **attorney** must also complete a *statutory form of acknowledgement of age* (e.g. the "To Wit" form);
- An **enduring** power of attorney must state:
 - a. Whether the attorney may exercise authority
 - (1) while the adult is capable, or
 - (2) only while the adult is incapable of making decision's about the adult's financial affairs, and
 - b. That the authority of the attorney continues despite the adult's incapability.

Form 33 - Certificate of Pending Litigation

When filing a certificate of pending litigation where the statement of claim refers to the *Family Relations Act*, the correct form to use is the **Form 33**. The Form 33 must refer to Supreme Court **Family Rule 22-8** and the parties should be shown as *Claimant* and *Respondent*.

If the two parties are divorced or are not legally married, or if the subject property is not registered in the name of the spouse, the Form 33 cannot be used. In these cases, the correct form to use is the **Form 31** which deals

with an estate or interest in land under the *Land Title Act*.

Counterclaim

If you are filing a Form 33 - Certificate of Pending Litigation dealing with a **counterclaim**, the Land Title Office will require a stamped copy of the **originating** Court documents as well as a stamped copy of the **counterclaim** documents.

Foreign Companies with Assumed Names

If a foreign entity applies for registration as an extraprovincial company in BC, and its name contravenes the requirements of the *Business Corporations Act*, the foreign entity must adopt an **assumed name**.

If the foreign entity acquires an interest in land, its **assumed name** must be shown on all Land Title documents.



E-File or Manual File

In many cases, it can be faster to **manually** file in Court rather than electronically file through CSO. CSO targets their turn around times from **two (2) hours to five (5) days**, depending on the document.

Whether you send your work in through our run system, website or email the documents to us, we can usually have them manually filed within an hour.

Note: In *New Westminster*, agents are not permitted to manually file documents between 1:00-2:00 p.m.

If you call us in advance, we can assist you in determining the fastest way to file and return your documents.

Late Filings at Outlying Courts

For urgent, late day filings, (after 1:00 p.m.) at Port Coquitlam, Richmond and Surrey Provincial Courts, if we are advised in advance, we may be able to make a special trip on your behalf.

Note: Surcharges will apply.

FEDERAL CORP UPDATE

NFP ACT

The *Canada Not-for-profit Corporations Act* (NFP Act) came into force effective October 17, 2011. The NFP Act replaces Part II of the *Canada Corporations Act* (CCA) as the governing legislation for federal corporations without share capital or not-for-profit corporations and those incorporated by a special Act of Parliament.

All federal not-for-profit corporations will now incorporate under the NFP Act, and all existing not-for-profit corporations will have **three years**, until October 17, 2014, to transition to the new legislation or risk being dissolved. To facilitate the change, Industry Canada will not charge initial filing fees related to transitioning from the CCA to the NFP Act. For further information, please visit www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/h_cs03925.html or www.corporationscanada.ic.gc.ca and follow the links.

Transitioning to the NFP Act

There are five basic steps to transition an existing not-for-profit corporation to the NFP Act:

- Review the Corporation's Current Letters Patent and By-laws
- Create Articles of Continuance
- Revise the By-laws
- Obtain Member Approval
- File with Industry Canada

BC REGISTRY UPDATE

Online Accounts

Effective December 1, 2011, BC Registry Services no longer accepts BC Online account payments *made in person*. Available options for making a deposit to your BC Online account are:

- Automatic Electronic Funds Transfer
- "On Demand" Electronic Cheque
- Internet Banking
- At your Bank
- Mail a cheque, made payable to: *Access Point Information Canada Ltd.*
400A – 4000 Seymour Place
Victoria, BC V8X 5J8

Further information is available at www.bconline.gov.bc.ca or 1-250-953-8200.

VITAL STATS UPDATE

Pick-Up No Longer Available

The Vital Statistics Branch has discontinued the pick-up process for *Wills Notice searches*, as it did previously for *Marriage / Birth / Death certificates*. The procedure now for all Vital Statistics work (searches and certificates) is that completed work will be **mailed** to the applicant's address or, if priority service is requested, **couriered** to the applicant's address.

To ensure that completed work is returned in a timely manner, we add our West Coast address to the applicant section when we submit work on your behalf, so that; (a) completed work will be returned to us to forward on to you and

(b) in the case of defect notices, the work will be returned to us for correction/further information rather than being mailed/couriered to the applicant law firm's address.

Note: Wills Notice searches done on a priority basis will now take a *minimum of 3 days*.

WEST COAST UPDATE

Statutory Holidays 2012

The Court Registries, Land Title Offices and other Government Registries will be closed on the following dates:

January 2	Monday
For New Year's Day	
April 6	Friday
Good Friday	
April 9	Monday
Easter Monday	
May 21	Monday
Victoria Day	
July 2	Monday
For Canada Day	
August 6	Monday
BC Civic Holiday	
September 3	Monday
Labour Day	
October 8	Monday
Thanksgiving	
November 12	Monday
For Remembrance Day	
December 25	Tuesday
Christmas Day	
December 26	Wednesday
Boxing Day	

The staff at
West Coast
wish you
all the Best...



& a very Happy
Holiday Season
and
New Year!

WINTER WEATHER WARNING

Midday Service to Victoria

At this time of year, the weather can be unpredictable. High winds and fog can cause delays and even cancellations of our *midday service to Victoria*. Work sent over through our midday service usually arrives in our Victoria office by 2:00 p.m. If there is a delay with the flights to Victoria, your same-day filing date may be jeopardized.

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

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.

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

Specific Day Filings

If you send your documents to us and specify a date of filing on the invoice, it is not necessary to mark the "Hold" box on the invoice, unless you do not want us to proceed on the specified date without first contacting us. *If the "Hold" box is not marked, there is no extra charge for keeping your documents until the date specified for filing.*



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.

West Coast Title Search Ltd.

Website: www.wcts.com
Email: info@wcts.com

99 Sixth Street
New Westminster, BC V3L 5H8
604-659-8600 Fax 604-525-2593
Toll Free: 1-800-553-1936

840 Howe Street - Suite 100
Vancouver, BC V6Z 2L2
604-659-8700 Fax 604-682-5793
Toll Free: 1-800-806-2788

1207 Douglas St - Suite 512
Victoria, BC V8W 2E7
250-405-6000 Fax: 250-383-1614
Toll Free: 1-800-667-7767

Caution - While every effort has been made to verify the accuracy of this newsletter, neither West Coast Title Search Ltd. nor the authors are providing legal or other professional advice through this publication, and it should never be relied upon without reference to the relevant legislation, case law, administrative guidelines and other primary sources.

