



The Register

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In This Issue

Asked & Answered

A PPR Question 4

Court Update

Adjourning Under Rule 51A .. 2
Signing Documents for
Filing in Court 2
Staff Anniversary 2
Surrey Traffic Court Moves
to Richmond 2

Keeping You Informed 4

Land Update

Claims of Lien 3
Vesting Orders and
Strata Form F's 3

MHR Update

Manufactured Homes
Online Update 3

Process Serving Update

The Flat Rate Process
Serving PlanTM 2

Weather Warning 3

West Coast Update

Computer Mousepads 4
E-Mail Service 4



*The Staff at
West Coast wish you
all the best of the
holiday season and a
Happy, Healthy &
Prosperous 2004!*

Statutory HOLIDAYS

The Court Registries and Land Title Offices will be closed on the following dates in the coming year 2004.

- January 1 (New Year's Day - Thursday)
- April 9 (Good Friday)
- April 12 (Easter Monday)
- May 24 (Victoria Day - Monday)
- July 1 (Canada Day - Thursday)
- August 2 (BC Civic Holiday - Monday)
- September 6 (Labour Day - Monday)
- October 11 (Thanksgiving - Monday)
- November 11 (Remembrance Day - Thursday)
- December 27 (Christmas - Monday)
- December 28 (Boxing Day - Tuesday)



Court

UPDATE

Signing Documents for Filing in Court

Many court documents may be signed on behalf of counsel by either counsel's support staff or by their registry agents. Often this is done by signing the solicitor's name in quotations, indicating that the document was signed "for the party's solicitor". Supreme Court Rule 4(5) states that a document prepared for use in a proceeding must be signed and dated by the party **or** by the party's solicitor **or** for the party's solicitor.

Exceptions: Supreme Court Rule 41(8) requires that orders be approved only by parties or their solicitors or counsel. Other exceptions are documents that are sworn, or where there is an undertaking or certification to the court. *For example*, only counsel can sign a statement of solicitor on a divorce statement of claim, and only counsel or one of the parties may sign a trial certificate.

Note: If you are filing documents in the Land Title Office, it is not acceptable for the solicitor's signature to be shown in quotations. **All signatures must be original and must be the actual signature of the person signing the application.**

Surrey Traffic Court Moves to Richmond

When the Delta courthouse closed in November, 2002, Surrey was designated as the new receiving location for all matters previously heard at Delta. This added approximately 2000 cases a year to the Surrey Court caseload. In an effort to reduce the resulting backlogs, the decision was made to move Surrey traffic court to **Richmond**. It had been anticipated that the move would take place in early September, but the move was delayed until November, 2003.

Adjourning Under Rule 51A

To adjourn a hearing under Rule 51A, the applicant must apply in one of the following three ways:

- by filing a praecipe up to 4 p.m. the day before the hearing,
- in person after 9 a.m. the day of the hearing, or
- by phone (or fax) before the Registry opens at 9 a.m. the day of the hearing. A praecipe must then still be filed.

Note: In **Vancouver** adjournments may only be **faxed**, *not phoned*. In **New Westminster**, adjournments may only be **phoned**, *not faxed*.

All adjournments must be either by consent or due to non-service. To adjourn to a new date, a separate praecipe with 2 copies of the filed Notice of Motion must be filed.



Process Serving

UPDATE

The Flat Rate Process Serving Plan™

In the October issue of *The Register*, we had outlined the benefits of our 30/50/70 Flat Rate Process Serving Plan™. Inadvertently, we had indicated that there were "no fees for attempts" when we meant to say that we do charge for attempted services but there are no fees for **additional** attempts. We apologize for any confusion this may have caused.

Our 30/50/70 Flat Rate Process Serving Plan™ provides professional process serving at a predictable upfront fee for basic services.

For a copy of our 30/50/70 Flat Rate Process Serving Plan™, outlining the different geographical areas covered and the corresponding basic service fees, please contact our Client Services department at 604.659.8686 or toll free at 1.800.553.1936 or visit our website at www.wcts.com/fees.htm.

Staff

ANNIVERSARY



Stuart Scharf and Shelley Porter, General Manager

On November 15th, 2003, **Stuart Scharf**, our Vancouver Court Manager celebrated his **15th 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!"

**MHR****U P D A T E****Manufactured Homes Online Update**

The implementation date for certain Manufactured Home processes to be available online is December 8, 2003. Only those parties approved as Qualified Suppliers will have access to the online system. West Coast has applied to be a Qualified Supplier in order to continue to service our clients' registration needs. We will be fully trained in the online registration processes as well as those for paper filings.

MH Online replaces three of the most frequently used paper forms: initial registration, transfer of ownership resulting from a sale and residential exemptions. Three new forms have been developed and can be used starting December 8, 2003:

- *Notice to Transfer or Change Ownership* (replaces Form 2)
- *Bill of Sale* (a recommended but not required Form)
- *Application for Residential Exemption*

Initially, the online system will be optional. Paper forms will still be accepted for filing at the MH Registry. However, electronic filing of the above transactions will become mandatory as of February 26, 2004. Then, only those services not available online will be filed in paper format. Some exceptions may apply.

The new Manufactured Home Act can be viewed at www.legis.gov.bc.ca/37th4th/3rd_read/gov72-3.htm. West Coast can also obtain copies of the new MH Act and Regulations for you. For copies of the new forms, please contact Client Services at 604.659.8686 or toll-free at 1.800.553.1936. For more information on this important Registry change, call Sheila Mitchell or Moira Millar in our Victoria office at 405.6000 or toll-free at 1-800-667-7767.

Weather Warning***Adverse Weather Conditions Can Delay Midday Bag to Victoria.***

Since flights can be delayed without warning in the winter months, it is best not to rely on same-day service from Vancouver to Victoria for documents that must be filed on a specific day. High winds and fog can affect whether or not our midday bag arrives on time or even at all.

If you require submission/registration on a specific day, please forward your documents to our Vancouver Office by 4:45 p.m. the day before your deadline for filing.

Land**U P D A T E****Vesting Orders and Strata Form F's**

Certificates of Payment (Form F's) are no longer required with vesting orders in a foreclosure proceeding dealing with a strata lot, provided the court order complies with s.34 of the Land Title Act.

Background

The Supreme Court of British Columbia recently handed down a decision (*Peoples Trust Company v. Meadowlark Estates Ltd.* 2003 BCSC) that a Certificate of Payment (Form F) did not have to be filed with a vesting order in a foreclosure proceeding. The Court decision was based in part on the distinction between the meanings of "transfer" and "transmission".

Under s.256 of the *Strata Property Act*, a Form F is required for a conveyance of a strata lot. Under s.1 of the *Strata Property Act*, a conveyance means a transfer of a freehold estate in the strata lot. Section 1 of the *Land Title Act* states that a "transfer" includes a conveyance and a "transmission" includes a change of ownership under an order of the court.

Master McCallum in his Reasons for Judgment stated that "... a sale of a strata property in foreclosure proceedings made pursuant to court order is a transmission of ownership. It is not a transfer and therefore it is not a conveyance. Section 256 of the *Strata Property Act* is therefore inapplicable ... and no Form F is required..."

Complying with s.34 Land Title Act

Section 34 of the *Land Title Act* states that the registrar must not register an indefeasible title under a direction contained in an order of the court, unless the court order contains a declaration to the effect that it has been proved to the satisfaction of the court, on investigation, that the title of the person(s) in whose name the title is being vested is a good safe holding and marketable title. Current land title practice is to accept vesting orders in foreclosure proceedings without a Form F **only if the court order includes this declaration.**

Claims of Lien**Filed by a Partnership**

A claim of lien may be filed by a partnership. Any individual partner may complete the Form 5 under the *Builders Lien Act* and file a claim of lien showing the partnership as the lien claimant. To **release the claim of lien**, the transferor on the Form C is the partnership and the person executing must be shown as a **partner** "on behalf of the partnership", not as an authorized signatory.

Filed by an Individual

A claim of lien may also be filed by an individual. Usually the individual completes the Form 5 either in his own personal name or in the name of the business. If the business is not an incorporated company, then it is better to file the lien in the name of the *individual doing business as (dba) or carrying on business as (coba)*. To **release the claim of lien**, the transferor on the Form C is the "individual dba... or cobra..." and the person executing is the individual named as the transferor.



Asked & Answered ~ A PPR Question

Question:

Can I file a judgment or court order in the Personal Property Registry (PPR)?

Answer:

A judgment or court order can be filed at the PPR if the judgment/court order refers to an already existing charge on register at the PPR. It is filed by registering a change to the existing registration. If there is no existing charge on register at the PPR that pertains to the judgment/court order, then there is no provision to file it at the PPR.

*Our managers are pleased to answer your questions and to assist you with any problems you may have.
As a service to all our clients, we will publish the answers to our most frequently asked questions.*

"You asked . . . We answered."

Keeping you Informed

Below is a list of memorandums and notices that we have sent out since our last newsletter. For additional copies, please call our Client Services department at 604.659.8686 or toll free at 1.800.553.1936. You may also view these on our website www.wcts.com under the *News and Updates* button or e-mail your request to info@wcts.com.

CORPORATE/MHR/PPR

None issued

COURT

- **October 17, 2003** - Photocopying and Faxing Charges
- **October 30, 2003** - 2004 Victoria Court of Appeal Sittings
- **November 14, 2003** - Court Mediation Program

LAND

None issued



West Coast UPDATE

Computer Mousepads

In November, 2003, West Coast distributed computer mousepads imprinted with two year calendars for **2004** and **2005**. We have received many favourable comments from our clients that these mousepad calendars are very useful in making future Court dates.

If you did not receive a computer mousepad, please contact Kelly Buziak in our Client Services department at 604.659.8686 or toll free at 1.800.553.1936 or e-mail your request to info@wcts.com.

E-Mail Service

In addition to sending work requests via our run system or by fax, work requests 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. We will 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 Helen Ternan at 604.659.8600 or toll-free at 1.800.553.1936.

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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