



# The Register

THE NEWSLETTER OF WEST COAST TITLE SEARCH LTD.

NUMBER 35 / 99

REGISTRY SERVICES • SEMINARS • PROCESS SERVING

July, 1999

## In This Issue

Asked & Answered .....	6
BC OnLine Deposits .....	3
<b>Corporate / PPR Update</b>	
Disbursing to Corporate / PPR / MHR Registries .....	3
Secured / Registering Party Codes	4
Corporate & PPR Registry Requirements Guide .....	4
<b>Court Update</b>	
Supreme Court Rules - Amendments .....	4
Filing Replies in Small Claims .....	4
Supreme Court Masters' and Judges' Chambers (Victoria) .....	4
Civil Trial Scheduling (Vancouver & New Westminster) .....	5
<b>Keeping You Informed .....</b>	<b>6</b>
<b>Land Update</b>	
New LTO Procedure For Defect Notices .....	2
Priority Agreements .....	2
LTO Registry Tip .....	2
New LTO Requirements For Certificates of Full Payment .....	2
Certificate of Pending Litigation (FORM 33) .....	3
Certification of Powers of Attorney	3
<b>Process Serving Update</b>	
Increasing Process Serving Effectiveness .....	1
<b>Vital Statistics Update</b>	
Wills Notice Searches .....	4
<b>Website News .....</b>	<b>6</b>

## Process Serving UPDATE

### Increasing Process Serving Effectiveness

One of the most common causes of delay in serving individuals is that useful and available information is not provided to the process server. Information which will make a process server more effective includes:

- Do you anticipate that the person being served will be evasive? Is the person male or female? How old is the person to be served? Without this information, a Junior (Jr.) may be mistaken for a Senior (Sr.)
- What does the person look like? Providing a physical description or photo will be of aid in any service, more importantly in difficult and evasive services.
- What are the person's aliases?
- Where does the person work? If you do not know the company, try to provide their occupation.
- What is the best time of day to serve this person? If you know their work shifts or personal habits, let us know.
- Did you obtain the person's address from a skiptracer or private investigator? Is the person on parole or of a violent nature?
- What previous attempts have been made? Include copies of any previous affidavits of attempt.
- Where has the person been served previously? Their favourite haunt may be more helpful for us to know than the party's home address.

#### *Be Explicit For Time Sensitive Files*

In your instructions, indicate your specific time requirements for best results. "Rush", "Urgent" and especially "ASAP" can be ambiguous.

#### *Providing Updates*

We will inform you once the service has been completed and provide you with regular updates. Should you require an update on a specific day or time (via phone or fax) or after a specific attempt is made, please inform us.

## Land UPDATE

### New LTO Procedure For Defect Notices

Effective June 1, 1999, the Lower Mainland Land Title Office implemented a new procedure for s.308 "Notices Declining to Register". One of the purposes in adopting this new policy was to streamline procedures and to eliminate unnecessary communication between the Land Title Office and the applicant. Rather than mailing the s.308 defect notice and waiting for the applicant to request withdrawal of the document for correction by way of letter, the Land Title Office will now give a copy of the defect notice to the agent who presented the document. The only additional requirement involved is for the agent to set out their client number in the application section of the document. *We will add our Lower Mainland client number ( # 10350) to your documents before filing.* When we receive the copy of the defect notice, we will exchange it for the original defect notice and the original document, which we will return to you through our regular run system. The LTO will mail the copy of the notice to you by regular mail as confirmation that we have picked up the original document for delivery to you.

Requests for extensions of time to comply with the requirements set out in the defect notice must be made directly to the examiner **by telephone**. Unless an extension has been authorized **prior to the expiry date set out in the notice**, the application will be cancelled without further notice.

### Priority Agreements

The Land Title Office recently confirmed their requirements regarding the filing of priority agreements, whether by way of FORM 24, FORM C, or by consent. All priority agreements must contain sufficient wording to *grant priority* to one charge over another and must also include reference to *valuable consideration*. In addition, in the application portion of the FORM 24 or in Item 3 of the FORM C, the nature of the transaction and the charges affected by it must be clearly set out. Just to have the words "Priority Agreement" is not sufficient. If any of this information is missing, the LTO may issue a s.308 "Notice Declining to Register".

In the case of a *consent to priority* attached to a FORM C which also deals with another interest in land (e.g. a section 219 covenant where a consent is attached granting the s.219 covenant priority over an existing mortgage), reference to the priority must be set out as: "*priority agreement granting s.219 covenant BN \_\_\_\_\_ priority over mortgage BM1234*". The registration number given to the s.219 covenant will be inserted in Item 3 at the time of filing. Also, in Item 5, along with transferor information for the s.219 covenant, the name of the mortgagee ("*as to the priority agreement*") must be included. Both the registered owner and the mortgagee as transferors must execute the FORM C.

### New LTO Requirements For Certificates of Full Payment

Section 11 of the *Condominium Act* requires that an assignment, lease, or agreement for sale of or conveyance of title to, a strata lot be accompanied by a certificate of full payment in Form A. The certificate is valid for three months and if another transaction occurs within the three-month time period, a Form A will be required for each transaction.

*Additional transactions which require a Form A:*

- sublease
- registration of a conveyance made under an order of the court, or on the registration of a vesting order in circumstances where the court could have ordered a conveyance
- cancellation of a right to purchase
- conveyance of a strata lot in a two-lot strata plan
- life estate

*Transactions which do not require a Form A:*

- vendor's assignment of an agreement for sale, or an assignment of a mortgage
- foreclosure order
- transmission to surviving joint tenant
- transmission to a personal representative (executor/administrator)

At one time the Land Title Office did not require a Form A for the transfer of a strata lot in a two-lot strata plan. Instead, the LTO would accept a letter from the applicant's solicitor setting out the reasons why he or she could not obtain a Form A. However, the second edition of the Land Title Practice Manual which became available in March, 1999, no longer included the duplex transaction as an exception to not requiring a Form A. Consequently, the LTO will no longer accept a letter from the applicant's solicitor. A Form A must now accompany this type of transaction.

### LTO Registry Tip

According to the Bank Act, S.C., 1991 c.46, the correct legal name for The Toronto-Dominion Bank includes a hyphen. If the hyphen is not included, the LTO may issue a s.308 "Notice Declining to Register". When dealing with a TD Bank charge that is already registered on title, even if the title shows the Bank name without a hyphen, you should now include the hyphen when dealing with that charge (e.g. release, modification, priority agreement).

## Certificate of Pending Litigation (FORM 33)

When filing a certificate of pending litigation where the statement of claim refers to the *Family Relations Act*, the correct Land Title form is the FORM 33. However, if the two parties are not legally married, then the FORM 33 cannot be used. In this case, the correct form to use is the FORM 31. Section 215(6) of the *Land Title Act* states that “a party to a proceeding for an order for the dissolution of marriage or judicial separation, or for a declaration that a marriage is null or void, or for a declaratory judgment under Part 5 of the *Family Relations Act* that spouses have no reasonable prospect of reconciliation with each other, may register under this section a certificate of pending litigation in the prescribed form in respect of any estate in land the title to which could change as an outcome of the proceeding”. Under the *Family Relations Act*, when dealing with Part 5 (“Matrimonial Property”), the definition of “spouse” does not include a man or woman who are not married to each other, even if they have lived together as man and wife.

## Certification of Powers of Attorney

Catherine Greenall, Registrar of the Lower Mainland Land Title Office, recently issued a memorandum concerning certification of power of attorney documents by Land Title Office staff. When a power of attorney document is certified by LTO staff, the power of attorney document is not reviewed as to its registerability at the time of certification. LTO counter staff only verify that the copy to be certified is identical to the original. Certification does not imply that the power of attorney will operate to effect any subsequent transaction. LTO examiners must still examine the power of attorney at the time of filing to ensure it meets the requirements of Parts 5 and 6 of the *Land Title Act*. If all requirements are not satisfied, then a certified power of attorney could be defected.

## BC OnLine Deposits

Effective September 1, 1999, deposits to BC OnLine accounts may no longer be made at Government Agent Offices, Land Title Offices, or at Companies in Victoria. Deposits may be made only through Automatic Electronic Funds Transfer (“EFT”) or by Electronic Cheque (“On-Demand EFT”). To have these services added to your BC OnLine account, you must complete an Electronic Funds Transfer Authority Form. For a copy of this form, or if you have any questions about these methods of payment, please call the BC OnLine administration staff directly at (250) 953-8250.

## Corporate / PPR

## UPDATE

### Disbursing to Corporate / PPR / MHR Registries

#### Corporate Work

If you disburse your own Minister of Finance cheques with your corporate work, the registry recommends that you write separate cheques for separate services. For example, if you are sending 6 incorporations, it is still acceptable to write one cheque to cover the entire cost of all incorporations. However, if you wish priority service on any of these 6 incorporations, it is recommended that you write a separate cheque(s) for the fees required on these registrations. The registry also advises that when your work is for separate units, separate cheques are recommended. As an example, incorporations, filing a special resolution, or filing an annual report are

considered separate units and as such should have separate cheques attached. Combining these fees on one cheque may result in delays as the registry considers “one cheque/multiple units” as complex transactions and, as such, deals with them only after the straight forward transactions are completed. An alternative to writing separate cheques for your corporate work is to have West Coast disburse on your behalf. Our fee for this is \$3.00 per file (no fee for disbursing for corporate maintenance filings and Personal Property registrations). We will draw up the Deposit Account Transaction forms for each service you require and disburse from our BC OnLine account. The benefit of this service is that the registry takes the exact amount required for your registration, and we can follow up on any delays with your work more efficiently.

#### MHR and/or PPR Work

If you are sending in the disbursement for a file that requires registration in both the MHR and PPR, only send the disbursement amount for the Manufactured Home registration. We will disburse for the Personal Property registration (no \$3.00 fee for disbursing). However, if you wish to disburse for your Personal Property registration, remember to include the registry’s processing fee of \$5.00 for Financing Change Statements and \$10.00 for Financing Statements. Financing Statements that include a Minister of Finance cheque will be submitted to the registry for registration. West Coast will not register these notices remotely. Since we do not charge to disburse for Personal Property registrations, it is to your advantage to have West Coast disburse for you, as we save you the processing fee on Financing Statements and your notice will be registered more quickly.

If you have any questions on this, please call our Corporate Registration staff at 405-6000 or toll free at 1-800-667-7767.

## Secured/Registering Party Codes

Are you tired of typing your office name and address on Financing Change Statements when you are acting as Registering Party? If so, you can apply to the Personal Property Registry to obtain a **Secured/Registering Party Code**. Then all you need to do is type in your 7 or 8 digit code any time you are acting as Registering Party. This code also doubles as a Secured Party code, and can be tied to a BC OnLine account number if you wish it to be. There is no cost to do this.

**NOTE:** The benefit to using codes in registrations is that when a party changes its address, a bulk address change can be done on all registrations where the code was used for a cost of \$100.00. Otherwise, individual address changes are \$15.00 per registration and a Financing Change Statement must be completed for each base registration requiring the amendment.

For a Secured/Registering Party Code - Application & Changes form, please call our Victoria office at 405-6000 or toll free at 1-800-667-7767 and we will be pleased to fax you one.

### Vital Statistics

## UPDATE

## Wills Notice Searches

Vital Statistics is now doing *Wills Notice Searches* on a priority, same day service basis for \$53.00 effective April 1, 1999. Normal turnaround time for wills notice searches runs upwards of 15 business days.

## Corporate & PPR Registry Requirements Guide

We have issued an update for our Corporate & PPR Registry Requirements Guide 5/99. It contains recent fee changes as well as updated practices of the corporate registry in several registration areas. If you have not received your copy of this update, or if you would like to obtain a copy of our Corporate & PPR Registry Requirements Guide, please call our Victoria office at 405-6000 or toll free at 1-800-667-7767 or contact us via our website (<http://www.wcts.com>)

### Court

## UPDATE

## Supreme Court Rules - Amendments

On May 27, 1999, there was an Order-in-Council amending the Supreme Court Rules of British Columbia. The Rule changes come into effect on July 1, 1999, and September 1, 1999. Should you wish a copy of the Rule changes, please call our Client Services department at 659-8686 or toll free at 1-800-553-1936 or by e-mail to [service@wcts.com](mailto:service@wcts.com)

## Supreme Court Masters' and Judges' Chambers (Victoria)

As per the May 26th and 27th memorandums from the Victoria Trial Coordinator regarding Supreme Court Masters' and Judges' Chambers, the Summer Sitting is from June 28 to August 27, 1999.

Judges' Chambers will be held on Wednesdays, Thursdays and Fridays only. Wednesday afternoon is Criminal Chambers.

Masters' Chambers will be sitting on **July 5, 6, 7, 8, 12, 13, 21, 22, 26, 27, 28, 29, August 3, 4, 5, 9, 10, 12, 16, 17, 18, 19, 23, 24, 25, 26**. The Master will not be sitting on Fridays as he will be conducting pre-trial conferences. (**Note:** There was a rota change and a Master will no longer be sitting July 19 & 20.)

Regular Chambers will commence in Victoria on Monday, August 30, 1999, for both Judges and Masters. The full trial list will resume on August 30, 1999, and with the exception of November 5th, will sit up to and including December 17, 1999. Christmas Recess is from December 20th to December 31st. For emergency applications during the Christmas Recess, a Judge will be available December 22nd and 29th.

## Filing Replies in Small Claims

In order to expedite the filing of Replies in Small Claims, please indicate on the invoice the amount of the Notice of Claim so that we may determine the fee required for filing the Reply. Recently, several of the outlying Small Claims Registries have advised us that if the amount is not stated, then they will not process the file immediately. The Reply must be left with them in order to allow their staff sufficient time to pull the file and determine the amount. This could result in a delay in returning a copy of the filed Reply to you.

Notice of Claim	Fee For Filing Reply
Up to \$3,000 .....	\$ 26.00
Up to \$10,000 .....	\$ 50.00

## Civil Trial Scheduling (Vancouver and New Westminster)

### Written Booking System

The following written booking system is in effect for scheduling Civil and Family trials as of July 2, 1999. Counsel may request trial dates for Civil trials **from 4 to 19 days** and Family trials **from 6 - 19 days** as set out in the schedule below:

Request Trial Date On:	Up to and Including:
July 2, 1999	January 2001
August 3, 1999	February 2001
September 1, 1999	March 2001
October 1, 1999	April 2001
November 1, 1999	May 2001
December 1, 1999	June 2001
January 4, 2000	July 2001

It is recommended that you do not limit your request to three choices only. If counsel have earlier dates available, please list those dates as well. Requests will not be rejected if only one date is given; however, rejected requests with only one date listed will not be given the same consideration as requests with multiple dates. Previously requested applications must be attached to your new requests.

To book trials from **1 to 3 days**, the one-year call-in schedule is still in effect. To book Family trials **up to 5 days**, a schedule for booking is still in effect and available at Trial division. For trials **20 days and longer**, please call Tanya or Laura at Trial division at 660-8551 to book your trial date. Counsel should be looking to dates beginning in the spring of 2001.

### Phone-In Booking System

The following phone-in booking system for Civil Trials from **1 to 3 days** and Family trials from **1 to 5 days** will be in effect as set out below. The only phone number for scheduling these trials is 660-8551. The phone lines open at 8:30 a.m.

#### Civil Trials (1 to 3 Days)

Commence Booking On:	For:
July 14, 1999	July 2000
August 18, 1999	August 2000
September 15, 1999	September 2000
October 20, 1999	October 2000
November 17, 1999	November 2000
December 15, 1999	December 2000

Trial scheduling is limited to **five Civil trials** per phone call.

#### Family Trials (1 to 5 Days)

Commence Booking On:	For:
July 22, 1999	March 2000
August 26, 1999	April 2000
September 23, 1999	May 2000
October 21, 1999	June 2000
November 25, 1999	July 2000
December 16, 1999	August 2000

Trial scheduling is limited to **two Family trials** per phone call.

## Asked & Answered

In this issue of "Asked & Answered" we are pleased to answer the following Court related question:

**Question:** What do I need to file to set down a Rule 65 application in Vancouver Chambers?

- Answer:**
1. Chambers record containing photocopies of material to be relied upon.
  2. Original Notice of Motion, Notice of Hearing, Outline and affidavit materials (to be submitted loose). These will go into the court file.
  3. Extra copy of Notice of Hearing, and either the Notice of Motion or Outline. These are for the Clerk of the Court.
  4. Extra copies of any documents that you want stamped and returned to you.

**NOTE:** *The registry will not stamp the original record or any duplicate records. Please do not send duplicate records.*

If you have any questions you would like answered in our next newsletter, please contact the appropriate West Coast department manager. We will be pleased to respond to any questions regarding procedures and requirements in Court, Land Titles, Corporate, Personal Property, etc.

### KEEPING YOU INFORMED

Below is a list of memorandums and notices that were issued since March, 1999. If you require additional copies, please call our Client Services department at 659-8686 or toll free at 1-800-553-1936 or e-mail your request to [service@wcts.com](mailto:service@wcts.com)

#### CORPORATE / PPR

None Issued

#### COURT

- **April 6, 1999** - Request for Court Bailiff Services
- **April 6, 1999** - Master's Schedule of Unavailability Dates - Victoria Registry
- **April 9, 1999** - Retrieving Your Chambers' Records
- **April 9, 1999** - Writs of Seizure & Sale
- **April 30, 1999** - Unavailable Dates for the Master in May - Victoria
- **May 26, 1999** - Master & Judges' Chambers - Victoria
- **May 27, 1999** - Master & Judges' Summer Sittings (June 28th to August 27th, 1999) - Victoria
- **June 22, 1997** - Supreme Court Rule Changes

#### MHR

None Issued

#### LAND

- **March 31, 1999** - Procedure For Defect Notice
- **April 29, 1999** - New BC Online Service Charge
- **May 17, 1999** - LTO Fee Changes
- **June 15, 1999** - Certificates of Pending Litigation

### WEBSITE NEWS

We are pleased to announce that we have added the Corporate Registry currency board to our website menu selection (<http://www.wcts.com>). We have labeled it "Corporate Currency". Each day the Corporate Registry posts the date for which they have completed submissions in each of the various departments. As soon as we receive the information each morning, we will update our website. If you need to know how long a particular registration which is already in the system will take, or if you want an idea of how long a future submission will take, once in the system, this will be a handy site for you to visit. Of course, you may still call our Victoria office at 405-6000 or toll free at 1-800-667-7767 and we will be pleased to answer any questions you have about the turnaround times at the registry.



*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.

93 Sixth Street  
New Westminster, BC V3L 2Z8  
659-8600 Fax (604) 525-2593  
1-800-553-1936

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

895 Fort Street - Suite 300  
Victoria, BC V8W 1H7  
405-6000 Fax (250) 383-1614  
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.*