



The Register

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Land

UPDATE

Electronic Filing System

The target date for the full implementation of the Electronic Filing System (EFS) for land documents is April 1, 2004. At the onset, electronic filing will be limited to the *Form A* transfer, *Form B* mortgage, *Form C* charge and release and *Claim of Lien*. *Form A* transfers other than *fee simple* transfers cannot be submitted electronically. **All other land documents must be filed in paper format at the Land Title Office.**

Electronic Filing Not Mandatory

Electronic filing of land documents is not mandatory. Even after implementation of EFS, all land documents, including the *Form A*, *Form B*, *Form C* and *Claim of Lien*, may still be filed in paper format at the Land Title Office.

Documents That Must Be Filed At The Land Title Office

The following is a partial listing of land documents which may only be filed in paper format:

- Caveat
- Certificate of Pending Litigation
- Change of Address
- Change of Name
- Court Orders
- Judgment
- *Land (Spouse Protection) Act* charge and release
- Power of Attorney
- *Strata Property Act* filings

- Transmission to Surviving Joint Tenant or Executor
- Reference and Explanatory Plans
- Subdivision and Strata Plans
- Any document filed with a Plan
- Any document filed with a Form 17

Property Transfer Tax Return

As a Property Transfer Tax Return must accompany every *Form A* transfer, provision has been made to allow electronic filing of the tax return. If property transfer tax is submitted electronically, the tax must be paid from a bank account using an *electronic funds transfer process*. All other land title fees will be collected through a regular BC OnLine *deposit account process*.

Strata Form F

Under s. 256 of the *Strata Property Act*, a *Form F* must accompany every strata conveyance. A *Form F* cannot be submitted electronically with the *Form A* transfer. A Declaration must be used to describe the details of the *Form F*. The Declaration is used only in electronic filing and can only be filed in support of an electronic form.

Digital Signature Fee To Be Charged

A lawyer or notary who is a subscriber must affix their digital signature before the electronic form can be electronically submitted. **Every time a digital signature is affixed to an electronic document, the Law Society will be charging a nominal fee (still to be determined).** The fee will be collected from both lawyers and notaries. Details have yet to be approved by the Benchers of the Law Society. It is unlikely that this fee will be in place when EFS is first implemented.



Land Title Transfer Forms Guidebook

To coincide with the launch of the Electronic Filing System, a 2004 edition of the green *Land Title Transfer Forms Guidebook* ("Guidebook") has been prepared and is now available. The Guidebook has been revised and updated to include completion instructions and user guidelines for completing the transfer forms A, B, C, D and E, both in *paper* format and in *electronic* format.

As in earlier editions, a complete copy of the Prescribed Standard Mortgage Terms (referred to in **Item 9 (a)** of the Form B Mortgage) is included in the Guidebook. In addition, there is also a useful Appendix at the back of the Guidebook which has examples of "Preferred Forms of Affidavits" to be used in those instances where a document has not been Officer certified.

Copies of the Guidebook may be ordered from:

The Continuing Legal Education
Society of British Columbia
845 Cambie Street - Suite 300
Vancouver, BC V6B 5T2
Cost: \$64.20 (\$50.00 + \$10.00
shipping + \$4.20 GST)

Phone: 604.893.2121
Toll Free: 800.663.0437
Fax: 604.669.9260

New Director of Land Titles

Ian Smith took over the position of Director of Land Titles from Ken Jacques effective January 19, 2004. Ken Jacques is now with the Legal Services department at the Ministry of the Attorney General. As well as being the Director of Land Titles, Ian Smith is also the Registrar for the *Lower Mainland*, *Victoria* and *Kamloops* Land Title Offices and he will continue to work out of the Lower Mainland Land Title Office in New Westminster.

LTO Fees for Priority Agreements

The Land Title registration fee attached to a priority/postponement agreement is determined by *the number of subsequent charges benefiting from the priority* regardless of the number of prior charges being postponed by the instrument. However, the manner in which the priority/postponement agreement is described in the instrument may affect how the Land Title Office determines the applicable fees payable.

The most commonly used form for filing a priority agreement is the Form C. As the Form C allows for variation in how the *Nature of Interest* in Item 3 is completed, this can affect how land title fees are applied.

When completing the Form C, all that is required is to enter one description under *Nature of Interest* in Item 3, listing *all* the prior charges which are giving priority to the subsequent charge(s). This applies even if the owners of the prior charges are different. **For example**, if you enter the words "*Priority agreement granting Mortgage BW1234 and Assignment of Rents BW1235 priority over Mortgage A5678 and Mortgage BM1234*", this would be considered **one description** and LTO fees would be \$120.00.

If you choose to enter a separate description for each prior charge holder that is giving priority, then the Land Title Office may require that additional fees be paid based on the number of separate descriptions set out in Item 3. **For example**, if you separate the interests as "*Priority agreement granting Mortgage BW1234 and Assignment of Rents BW1235 priority over Mortgage A5678*" **AND** "*Priority Agreement granting Mortgage BW1234 and Assignment of Rents BW1235 priority over Mortgage BM1234*", this would be considered **two descriptions** and LTO fees could be \$240.00.

Victoria LTO Closure Postponed

George Abbott, the new Minister of Sustainable Resource Management, announced recently that the scheduled April closure of the Victoria Land Title Office would be postponed until at least July 1, 2004. The Ministry is currently working with the Treasury Board and interest groups to consider the possibility of an independent authority to oversee the land title system in B.C. The decision could affect whether the closure of the Victoria LTO proceeds as planned.

Filing Documents in the Lower Mainland

Most of the land registrations filed in the *Lower Mainland* Land Title Office are handled by West Coast staff that work from our New Westminster office. Survey plans and related documents, caveats, certificates of pending litigation, meets and deliveries are handled by our staff that work out of the LTO. When calling to *release a hold, give additional instructions or check on a file in progress*, we will ask you specific questions about what you are filing so that we can locate your file more quickly.

Meet vs Delivery

What seems most confusing is understanding the difference between a Meet and a Delivery. A *Meet* is where your documents are *filed concurrently* with other documents filed by another law firm or agent. A *Delivery* is where your documents are delivered to us by another law firm or agent to match-up with your interest and *only your documents are filed*.

Holds

Documents on Hold will be kept in our office **except** *Meets* and *Deliveries*. These documents will be with our staff in the LTO. It is important, therefore, to let us know what kind of file you have on hold in order for us to find your documents more quickly and proceed with filing.

**Court****UPDATE****Civil Integrated Electronic System**

The Court Registries have recently begun implementing their new *Civil Integrated Electronic System* (CIES). The goal of CIES is to eventually provide a province wide search system for all Court Registries. The Court Registries are at different stages in implementing the new electronic search system. Some are months away from having CIES. Some have the system but have not had staff training. Others have implemented the system and have had staff training but the system is unreliable. New Westminster Court staff have informed us that because the new system requires more data entry, it is slowing down turnaround times. There does not appear to be any changes in turnaround times in Vancouver court. In addition, the Courts have advised us to expect longer line ups and not to expect 'Rush' service anymore. **Note:** All Courts, like Vancouver, now put alpha codes on files when they are opened.

Provincial Court Backlog Reduction

It was announced in mid-February that the Provincial Court would be working on a new initiative to reduce the backlog of criminal cases at Vancouver's Provincial Court at 222 Main Street. Currently, it can take up to 11 months for a court case to go to trial. As part of the initiative, two new judges were added to the Provincial Court system. Both the Ministry and the Judiciary will be working together to address these issues of delay. It is anticipated that waits will be cut significantly by December 31, 2004.

New Search and Copy Fees

The Ministry of Attorney General-Court Services Branch implemented a new fee schedule for record searches and photocopies effective March 1, 2004. The new fees were implemented "to ensure fee structures are consistent in each level of court". However, each Registry is interpreting the schedule in their own way. Some Registries charge \$8 for each name searched on computer, while others only apply this fee when the file is being searched. As well, some of the Registries are applying fees for obtaining copies from Criminal files, while others are not. West Coast will disburse fees on your behalf as required by each Court Registry. If you did not receive a copy of the Notice to the Bar regarding the new fees which we sent out in early March, 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.

Applications for Trial Dates

When a trial is to be held at a venue that is not the same as the location of the file, an Application for Trial Date must be filed. The application may come in with a Request for Trial Date, if appropriate, or it may be filed on its own, if the date was arranged by phone.

The Application for Trial Date is filed with the Registry in which the trial is to be held to ensure that the date is reserved. The Notice of Trial is then filed at the Registry where the file is located, along with a copy of the completed and filed Application for Trial Date. There is no disbursement to file the Application for Trial Date but there is a \$208.00 disbursement to file the Notice of Trial. **Note:** The procedure is the same whether the different location was shown on the statement of claim as the place of trial, or whether the venue for the trial was changed by an order.

Court Registry Tips**Amending Documents**

- When amending a document, please ensure that you include the date the original document was filed. The Vancouver Registry is now strictly enforcing this rule. Also, please remember to put the appropriate Rule and/or reference to the order by which your document was amended.

Criminal Appeal

- Factums in criminal appeals must comply with Criminal Appeal Rule 10 and Form 6. In addition, all criminal factums must not exceed 30 pages in length, unless a Judge otherwise orders.

Filing in Court and Land

- When sending **certificates of judgment and certificates of pending litigation** to be filed in Court and then forwarded on to the appropriate Land Title Office for filing, please enclose **three copies** (1 for Court, 1 for the LTO and 1 to return to you).

Vancouver Trial

- Vancouver Trial Division is now requiring that all documents filed with them be originally signed by the lawyer. They will no longer accept signatures in quotations.

- When filing List of Witnesses and Trial Records, please ensure that the date of trial is on the document.

Transcript Extracts

If, in the opinion of counsel, a full transcript of evidence is required for the proper hearing of an appeal, then notwithstanding Rules 20 and 27, a full transcript may be filed in place of the transcript extracts, *with the approval of the registrar*.

If a disagreement arises between counsel as to whether a full transcript is required, the issue may be brought before a Justice in Chambers. Upon such application, the Justice may give directions as to whether or not compliance with Rules 20 (1)(b) and 27 is required in relation to the appeal.



Corporate

UPDATE

Business Corporations Act (BCA) - Update

On Monday, March 29, 2004, the new *Business Corporations Act* (BCA) was brought into force and at the same time, the Corporate Registry implemented its new computer system, Corporate Online (COLIN). All new companies must now be registered under the new BCA and, if they are BC companies, they must be registered online.

Transition Period

All BC companies registered before March 29, 2004 must be transitioned to the new BCA **within two years** of it coming into force or risk being struck from the register. Transition to the new BCA must be done prior to filing a Notice of Alteration or a Short Form Amalgamation (the holding company or the company whose shares are not being cancelled must transition). Most other filings can still be done without having to transition.

Note: *There is no disbursement to transition.*

Transition Package

Starting March 29, 2004 the Corporate Registry began offering a Transition Package at a cost of \$40. The package includes a certified copy of a company's current memorandum and articles as well as a copy of the Transition Guide which explains the requirements for making the transition from the Company Act to the new BCA. The Transition Guide can be downloaded from the BCA Project website at www.fin.gov.bc.ca/registries/colin/transition.htm but the Registry advises that the guide is only for individuals who want to make a small company transition themselves.

Mandatory Online Filings

Of the 46 forms established by the Registrar of Companies for the new BCA, the following forms are now mandatory online filings as of March 29, 2004:

- Form 1 Incorporation Application/ Notice of Articles
- Form 2 Notice of Change of Address
- Form 6 Annual Report (BC company)
- Form 10 Notice of Change of Directors
- Form 11 Notice of Alteration
- Form 13 Amalgamation Application/ Notice of Articles
- Form 14 Short Form Amalgamation Application (Vertical and Horizontal)
- Form 16 Continuation Application/ Notice of Articles
- Form 32 Post-Restoration Transition Application
- Form 35 Annual Report (Extra-Provincial Company)
- Form 43 Transition Application/ Notice of Articles

Note: *All disbursements for online filings are deducted at the time of filing and are non-refundable.*

West Coast staff are fully trained in corporate online registration procedures and can register your completed forms via *email, fax* or from the *original*. We can also pick up any certified copies of online filings from the Registry whether we have done the online filing or not. If we are not the online registering party but have been listed on your online registration to pick up the certified documents, please advise us so that we can watch for the documents and return them to you.

Company Passwords

Each company under the new BCA will have a company password. Companies or their lawyers will set up the passwords on the Corporate Online website. Each password must contain between 8-15 digits (alphanumeric) and have a "hint". This password must be used for all online filings. For a new company, a password is created at the end of the online registration.

Future Effective Date/Time Filings

Certain filings under the new BCA have the option of **immediate registration** or a specified **future effective date/time** of registration up to 10 days in the future. The additional cost for a future effective date is \$100 and all disbursements are taken at the time of submission. Please note that no other filings can take place on a company that has a future effective date/time pending until that date/time has passed.

If you need to withdraw a filing prior to the effective date/time specified, you must file a Form 47-Application to Correct the Corporate Register. This is a paper filing (not an online filing) and the disbursement is \$20. Depending on the Registry's work volumes and time available before the effective date/time takes effect, you may need to file the Form 47 on a priority basis at an additional disbursement of \$100. **Note:** Once the effective date/time has passed, you cannot withdraw the filing. Also, no refunds on disbursements are given, even if a future effective date/time filing is cancelled.

Notice of Alteration

A Form 11-Notice of Alteration allows up to 5 changes on the one form:

- Change company name
- Change of translation of company name
- Remove pre-existing company provisions
- Change authorized share structure
- Add one resolution / court order date re: Alteration to Special Rights and Restrictions.

The disbursement to file a Notice of Alteration, regardless of how many changes are made, is \$100. If, however, one change has a future effective date/time, this will affect all the options as well as preventing any other filing to be made until that date/time passes. If one option has a future effective date/time and one is to be effective immediately, two Notices of Alteration will need to be filed.



If you would like a copy of the BCA Regulations (available now) or the new consolidated BCA which will include all amendments up to implementation date (available mid-April), West Coast can obtain them for you from Crown Publications.

The new mandated forms (paper and online) are available at the Corporate Registry's website at www.fin.gov.bc.ca/registries/corppg/crforms.htm.

If you have any questions about online filing or forms, please contact Sheila Mitchell or our Corporate department staff in our Victoria office at 405.6000 or toll free at 1.800.667.7767 or email your request to info@wcts.com.

Name Approval Requests

Due to reduced staffing levels at the Corporate Registry, registry staff are not able to prescreen name approval requests for potential conflicts prior to submission of the formal name approval request. West Coast staff will still prescreen your name choices prior

to submission to check for any obvious conflicts and/or any criteria that have not been met (e.g. distinctive or descriptive word) and advise you of any potential conflicts.

However, once the request has been submitted and completed by the Registry, names **will not** be amended by registry staff. You will have to submit a new name approval request and pay an additional disbursement of \$31.50. For minor changes that do not materially affect the granting of the name, e.g. punctuation or corporate designation such as "Inc." to "Ltd.", an additional disbursement will not be charged.

Examples of amendments that will require further payment of the examination fee are:

- Changes to the **submission order**, such as "second choice to first choice", etc.
- Changing from **incorporation to partnership/proprietorship**
- Gross **spelling errors** that result in a re-examination of the original submission
- **Adding additional names** after submitting only one or two choices

Victoria Staff ANNIVERSARY



On March 6th, 2004, **Moira Millar**, our Victoria Office Manager celebrated her **15th Anniversary** with West Coast. On behalf of Wayne Crookes, Owner/President and all the staff, we would like to congratulate Moira for her many years of dedicated service and say "Thank You For a Job Well Done!"

MHR UPDATE

Online Registrations

MHR Online registration is now in full force. At the onset, the online system for dealing with *initial registration*, *transfer of ownership resulting from a sale* and *residential exemptions* was optional. However, electronic filing for those transactions became mandatory as of February 20, 2004.

Turnaround Times

Online registrations can be registered same day unless a correction to the register is required. In this case, registration may take up to 24 hours. The Registry expects turnaround times for paper submissions to be 2 days or longer, barring any problems that need to be dealt with.

Execution Date

Since the implementation of MHR Online in December, 2003, there has been some issue about the *date of execution*. The date of execution is considered to be the date the party/ies executed the document. If this date differs from the date shown in Box A on the Bill of Sale, the date shown by the seller's signature in section F will be inserted as the date of execution on the online system.

West Coast is a Qualified Supplier

West Coast has been approved as a Qualified Supplier in order to access MHR Online. West Coast staff are fully trained in the online registration procedures for MHR. Any registration that must be done online will be registered the day we receive it unless otherwise stated on your invoice/cover letter. West Coast will always do a pre-search against the MHR number for any online registrations to ensure there are no charges against the home that could affect the filing. If you have any questions regarding the new MHR changes, please contact Moira Millar or Sheila Mitchell in our Victoria office at 405.6000 or toll-free at 1.800.667.7767.



Asked & Answered ~ A Land Question

Question: *What form is used to surrender a lease and who must execute the document?*

Answer: A Form C is used to surrender a leasehold interest in land. Both the transferor (lessee/tenant) shown in Item 5 and the transferee (lessor/landlord) shown in Item 6 must execute the Form C. In lieu of execution by the lessor, the solicitor or agent for the lessor may indicate in Item 1 that they are applying "on behalf of the lessor (insert the name of the lessor)" beneath their signature.

Note: Before the Land Title Office will cancel a lease, all derivative charges pertaining to the lease must also be dealt with. *For example*, if there is a **mortgage** of the lease registered on title, the mortgage must be discharged before the lease can be cancelled.

If you have questions you would like answered in our next Newsletter, please contact the appropriate West Coast department manager.

"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

- **December 8, 2003** - MHR Online Registration Now Available
- **February 2, 2004** - Mandatory Online Filings for MHR
- **February 23, 2004** - Important Information for BC & Extraprovincial Companies
- **February 26, 2004** - Business Corporations Act

COURT

- **December 1, 2003** - Unavailable Dates for a Master in the Months of January, February & March of 2004
- **December 22, 2003** - Vancouver Civil Trial Scheduling
- **January 6, 2004** - 1992 Victoria Supreme Court Files
- **January 16, 2004** - Request for Trial Dates in New Westminster
- **January 28, 2004** - New Computer Operating Program

- **January 29, 2004** - 2004 Judges Chambers in Victoria
- **February 12, 2004** - Master Sittings in Victoria Supreme Court
- **February 17, 2004** - Implementation of New Fees
- **March 4, 2004** - Master Sittings in Victoria Supreme Court
- **March 8, 2004** - Name of Counsel to be set out in Order

LAND

- **December 18, 2003** - LTO Fees to Increase
- **January 8, 2004** - Land Title Fee Changes
- **January 15, 2004** - Change for Change of Address Process

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 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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