



# The Register

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## Land

## UPDATE

### New Strata Property Act

Effective July 1, 2000, the *Strata Property Act*, the *Strata Property Amendment Act*, 1999 and the Strata Property Regulation will replace the *Condominium Act*, the Condominium Regulation, and the Miscellaneous Forms Regulation as the legislation governing strata property in British Columbia.

The *Strata Property Act*, S.B.C.1998, c.43 was passed in 1998 and was amended by the *Strata Property Amendment Act*, 1999 S.B.C. 1999, c.21 in 1999. In February 2000, the Strata Property Regulation (which includes Forms) was passed. The Acts, Regulation and Forms (except section 72 (2)(b) of the *Strata Property Act*) will come into force on July 1, 2000 by B. C. Reg. 43/2000.

The present *Condominium Act* which has 5 Parts and 133 Sections will be replaced by the *Strata Property Act* which has 17 Parts and 322 Sections and a Schedule of Standard Bylaws. To illustrate the depth and expansion of the new *Strata Property Act*, the various Parts and Sections covered by the Act are listed below:

**Part 1 - Definitions and Interpretation** (Section 1)

**Part 2 - The Strata Corporation** (Sections 2 - 4)

**Part 3 - The Owner Developer** Divisions 1 to 3 (Sections 5 - 24)

**Part 4 - Strata Corporation Governance** Divisions 1 to 7 (Sections 25 - 65)

**Part 5 - Property** Divisions 1 to 5 (Sections 66 - 90)

**Part 6 - Finances** Divisions 1 to 6 (Sections 91 - 118)

**Part 7 - Bylaws and Rules** Divisions 1 to 3 (Sections 119 - 138)

**Part 8 - Rentals** (Sections 139 - 148)

**Part 9 - Insurance** (Sections 149 - 162)

**Part 10 - Legal Proceedings and Arbitration** Divisions 1 to 4 (Sections 163 - 189)

**Part 11 - Sections** (Sections 190 - 198)

**Part 12 - Leasehold Strata Plans** (Sections 199 - 216)

**Part 13 - Phased Strata Plans** (Sections 217 - 238)

**Part 14 - Land Titles** (Sections 239 - 256)

**Part 15 - Strata Plan Amendment and Amalgamation** Divisions 1 to 2 (Sections 257 - 271)

**Part 16 - Cancellation of Strata Plan and Winding Up of Strata Corporation** Divisions 1 to 4 (Sections 272 - 289)

**Part 17 - General** (Sections 290 - 322)

**Schedule of Standard Bylaws** Divisions 1 to 6 (Sections 1-30)

Copies of the *Strata Property Act*, the *Strata Property Amendment Act*, 1999 and the Strata Property Regulation (including Forms) may be ordered from:

Crown Publications  
521 Fort Street  
Victoria, B. C.  
Phone: (250) 386-4636

The relevant Acts, Regulation and Forms may also be found at the Ministry of Finance website at:

[www.fin.gov.bc.ca/strata.htm](http://www.fin.gov.bc.ca/strata.htm)

## New Forms Under The Strata Property Act

New forms have been prescribed for use under the *Strata Property Act*. A listing of some of the new forms and their uses appears below. **Note: The new forms may not be used before July 1, 2000.**

Condominium Act (Old Form)	Strata Property Act (New Form)	Purpose
Form 4	Form Z	<b>Application to Deposit Strata Plan</b> (formerly Application For Deposit of Strata Plan) - To accompany a strata plan application
Form 6	Form E	<b>Certificate of Strata Corporation</b> - To accompany land documents executed by The Owners, Strata Plan No. _____
Form 8	Form Y	<b>Owner Developers' Notice of Different Bylaws</b> (formerly Notification of Change of Bylaws) - To file an amendment to a bylaw (at the same time as the strata plan is filed)
Form 9	Form I	<b>Amendment to Bylaws</b> (formerly Notification of Change of Bylaws)- To file an amendment to a bylaw (after the strata plan has been filed)
Form E	Form P	<b>Phased Strata Plan Declaration</b> (formerly Declaration of Intention to Create a Strata Plan by Phased Development) - To accompany the first phase of a phased strata plan
Form A	Form F	<b>Certificate of Payment</b> (formerly Certificate of Full Payment) - To accompany a strata conveyance, right to purchase or lease
Form B	Form G	<b>Certificate of Lien</b> (formerly Certificate of Default in Payment) - To file a strata property charge
Form C	Form H	<b>Acknowledgement of Payment</b> (formerly Certificate of Payment) - To release a strata property charge

For a complete listing of all the new forms and when they are to be used, please refer to the Strata Property Regulation.

### Property Transfer Tax Act Amendment

Information Bulletin 1-00 issued by the Income Taxation Branch outlines a change to the *Property Transfer Tax Act* (the Act) introduced under the *Budget Measures Implementation Act, 2000 (Bill 3)*. The change is effective March 28, 2000 and introduces an anti-avoidance rule.

#### Background

Property transfer tax is imposed on the fair market value of land on the date application is made to register a transfer of any interest in land at a Land Title Office. Certain pre-existing interests in land which were not subject to tax (e.g. a lease for a term of less than 30 years) may impact the fair market value of the land subject to those interests. As this could provide an opportunity to artificially reduce the fair market value of land, and the tax payable on a subsequent transfer, the Act has been amended by the addition of a new provision at section 1.2.

#### Anti-Avoidance Rule

This new provision requires that the fair market value of land, on the date application is made to register a transfer, be determined without reference to any interest in the land already held by the transferee (or by an individual or corporation related to the transferee). The provision applies where the interest already held was either not registered in a Land Title Office or, when it was registered, tax under the Act was not payable.

The rule will not apply where:

- the tax was paid on the fair market value of the interest already held;
- the interest already held was registered against the title to the land before the Act came into effect on March 23, 1987; or,
- the interest already held was a registered fee simple interest as a joint tenant or a tenant in common.

For further information on this change to the Act, please contact:

The Administrator  
Property Transfer Tax  
Min. of Fin. and Corp. Relations  
P.O. Box 9427 Stn Prov. Govt.  
Victoria, B.C. V8W 9V1  
Telephone: (250) 387-0604  
Fax: (250) 953-3094  
Website: [www.fin.gov.bc.ca/incometax](http://www.fin.gov.bc.ca/incometax)

### Land Tax Deferment Note

The Land Tax Deferment Office will only grant consents to transfer property to the surviving joint tenant of a deceased registered owner.

If you wish to transfer an interest in property to someone other than the surviving joint tenant, the tax deferment agreement will have to be paid in full.

## Representation Agreement Act

The *Representation Agreement Act*, R.S.B.C. 1996, c.405 came into force on February 28, 2000. The purpose of the Act is "to provide a mechanism

(a) to allow adults to arrange in advance how, when and by whom, decisions about their health care, personal care or financial affairs or about other matters will be made if they become incapable of making decisions independently, and

(b) to avoid the need for the court to appoint someone to help adults make decisions, or someone to make decisions for adults, when they are incapable of making decisions independently."

The *Land Title Act* has been amended to include section 47.1 to deal with representation agreements.

### Form of Agreement

The representation agreement must be in writing although there is no statutory form for the agreement. The parties to the agreement are the *Adult*, who must be at least 19 years of age or older, and the *Representative*, who is appointed by the adult to make certain decisions about personal care, health care, and legal and financial affairs should the adult become incapable. An *Alternate Representative* may also be appointed should the representative be unable or unwilling to act or continue to act as the representative. The adult must also name in the representation agreement someone to act as *Monitor*, or state in writing or dictate at the time of signing the agreement that a monitor is not required.

### Execution of Agreement

The representation agreement must be executed by the adult and by each representative and each alternate representative in the presence of 2 witnesses. One of the witnesses to the adult's signature must be a solicitor.

If the adult is physically incapable of signing the agreement, another person may sign for the adult making the agreement. Prescribed forms must be completed for all parties and all witnesses and attached to the agreement.

### Prescribed Forms Attached to the Agreement

- **Form 1 - Certificate of Representative or Alternate Representative** - to be completed by each representative and alternate representative.
- **Form 2 - Certificate of Person Consulted About a Representation Agreement** - to be completed by a member of the Law Society whom the adult has consulted, if the agreement authorizes dealing with real property.
- **Form 3 - Certificate of Monitor** - to be completed by the monitor if one has been appointed
- **Form 4 - Certificate of Person Signing For an Adult** - to be completed by the person who signs a representation agreement for the adult making the agreement who is physically incapable of signing
- **Form 5 - Certificate of Witness** - to be completed by the people witnessing the signing of a representation agreement.

### Filing in the Land Title Office

If the representation agreement deals with "disposing of or managing the adult's assets" (sec. 9(1)(g)) and/or "investing the adult's assets" (sec. 9(1)(h)) and ultimately will be used to deal with real estate matters, then the original representation agreement must be filed in the Land Title Office. It must be accompanied by a Filing Letter. LTO fees are \$20.00.

**Note:** For land purposes, the true and correct legal name must be used for all parties to the representation agreement. "Also Known As" (A.K.A.) variations must not be shown.

### Where To Obtain Copies

Copies of the *Representation Agreement Act*, 1996, c.405 and the *Representation Agreement Regulation*, B. C. Reg. 459/99 as amended by B. C. Reg. 34/2000 (which also includes the Forms) may be ordered from:

Crown Publications  
521 Fort Street  
Victoria, B. C. V8W 1E7  
Phone: (250) 386-4636

## Impact on the Power of Attorney Act

The effect of the *Representation Agreement Act* will be most noticeable from a Land perspective as it relates to the filing of power of attorney documents in the Land Title Office. **Effective September 5, 2000, Section 8 of the *Power of Attorney Act*, which deals with enduring powers of attorney, will be repealed and replaced by the *Representation Agreement Act*.** However, ordinary powers of attorney that people use for business purposes can still be made. If a person makes an enduring power of attorney before Section 8 of the *Power of Attorney Act* is repealed on September 5, 2000, the document can continue to be used. After September 5, 2000 enduring powers of attorney will no longer be enforceable.

**Note:** A power of attorney will automatically expire 3 years after the date it was executed, unless it is expressly stated in the power of attorney document that Section 56 (1) of the *Land Title Act* is excluded .



## Cancellation of Lease

A lease agreement is always for a specific term and may include one or more renewal periods. The lessee (tenant) may surrender his lease at any time, provided the lessor (landlord) agrees to the surrender. An applicant may apply to have the lease cancelled where the term of the lease has expired, where the lessee did not renew the lease or where there has been a breach of covenant. Depending on the circumstances, different forms of application are used to cancel a lease.

### By FORM 17

#### (a) *Where Term of Lease Has Expired*

Where the term of the lease (including all renewals) has expired, an applicant may apply for cancellation of the lease by filing:

- a Form 17, and stating “*by effluxion of time*” after the registration number of the lease being cancelled.

#### (b) *Where Right of Renewal Has Not Expired*

Where the lease has a right of renewal and the renewal period has not yet expired, an applicant may apply to cancel the lease by filing:

- a Form 17 and,
- a statutory declaration from the lessor stating that the lessee did not renew and went out of possession

**Note:** Under section 303(e) of the *Land Title Act*, the registrar serves notice on the lessee.

#### (c) *On Breach of Covenant*

Where there has been a breach of covenant and re-entry and recovery of possession by the lessor, an applicant may apply to cancel the lease by filing:

- a Form 17 and,
- a statutory declaration from the lessor stating that there has been a breach of covenant on the part of the lessee and that the lessor has re-entered and recovered possession of the property.

**Note:** Under section 247 (2) of the *Land Title Act*, the registrar sends a notice to the lessee and to the holder of any derivative charge that application has been made to cancel the lease and sets a date and time for a Hearing to be held.

### By FORM C

A FORM C is used to surrender a leasehold interest. Both the lessee (transferor) and the lessor (transferee) must execute the FORM C. In lieu of execution by the lessor, the lessor’s solicitor or agent may indicate in Item 1 of the FORM C, that they are applying on behalf of the lessor by adding “*on behalf of the lessor*” (and include the name of the lessor) beneath their signature.

**Note:** Before the LTO will cancel a lease, all derivative charges must also be dealt with. *For example*, if there is a mortgage of the lease, the mortgage must be discharged before the lease can be cancelled.

## Court UPDATE

## Civil Trial Scheduling

### New Westminster and Vancouver Trial Dates

Commencing May 1, 2000, the New Westminster and Vancouver Law Courts will book one, two or three day civil trials to start on Tuesdays through Fridays, as space is available. They will no longer be booking civil trials commencing on Mondays. Counsel can call at their convenience to arrange dates. You no longer have to abide by the specified date phone-in system.

Trials four days or longer will continue to be booked by written request up to 18 months in advance. Counsel should submit at least three available trial dates on their request. It is recommended that you do not limit your request to three choices only. All trial dates four days or longer are booked to commence on Mondays with the exception of Holiday week-ends when they are booked to commence on Tuesday.

**Note:** 5 and 10- day trials will not be booked in these short weeks.

Parties that require an earlier trial date should make their request in writing to the trial coordinator outlining their specific circumstances. Every effort will be made to accommodate reasonable requests.

### Victoria Trial Dates

There are some openings for 5-day and over trials beginning in September of 2000, up to and including September, 2001. A request for Trial dates should be submitted in the usual manner.

Trials of one to four days will be booked by telephone. These dates are scattered throughout the year and can be booked up to one year in advance. There are still quite a number of dates available.

Please contact Supreme Court Trial Division at (250) 356-1450 or (250) 356-2050 for available dates.

## Court Registry Tips

- If there is more than one defendant / plaintiff, and counsel is representing all parties, remember to add an “s” to defendants/ plaintiffs.
- If your order is a “Rush”, please enclose a letter of explanation of urgency in order to expedite your request.
- If a party to the action has been dismissed, please enclose a copy of the consent dismissal order (NW Court) or indicate “Dismissal” on your praecipe (Van Court) when filing your final consent dismissal order (CDO).
- When filing an affidavit alone, please advise the day the application is set for, in order to ensure it is forwarded to the courtroom with your motion (NW Court).

## Ships Registry

### UPDATE

## Amendments To The Canada Shipping Act

Amendments to Part 1 of the *Canada Shipping Act*, assented to June 11, 1998, came into effect February 28, 2000. The major changes to the marine registration process are:

- The registration forms have been revised. Ships Registry will accept old forms for the time being (exact date to be announced). The new **Form 14 - Appointment of Authorized Representative** (formerly **Form 22 - Appointment of Manager**) is no longer required for pleasure craft.
- The Canadian Register of Ships (section 13 of the revised Act) is now the final authority for determining title and registered encumbrances. The books will no longer be updated. Searches must be conducted by obtaining a computer printout from Ships Registry. West Coast would be pleased to conduct these searches for you.
- Certificates of Registry now must be renewed periodically. Ships Registry will advise owners when existing Certificates of Registry require renewal. The registry will issue a new Certificate of Registry with each change of owner.
- A new, simplified method of survey for smaller vessels is now allowed.
- Mandatory registration is now required for every ship that exceeds 15 tons gross tonnage, is owned by qualified persons, and is not registered in a foreign country

If you would like a copy of Transport Canada's "*Registration Guide - How to Register a Ship or Boat in Canada*" or copies of the new registration forms, please call Sue Sharma or Nina Andrews in 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)

## B.C. Gazette

The 2000 Gazette fee schedule is available by calling Sue Sharma or Nina Andrews in our Client Services department at 659-8686 or 1-800-553-1936 or e-mail your request to [service@wcts.com](mailto:service@wcts.com)

## Corporate

### UPDATE

## Canada Business Corporations Act (CBCA)

On March 21, 2000 the Government of Canada introduced a bill in the Senate to amend the *Canada Business Corporations Act* (CBCA) and the *Canada Cooperatives Act* (CCA).

As per Industry Canada, the amendments will :

*"expand shareholder rights...by giving shareholders improved means to communicate, make proposals and participate in decision making; enhance global competitiveness...by allowing stronger international representation on the boards of CBCA corporations and supporting risk taking; clarify responsibility...by addressing the liabilities of directors, officers, shareholders and other parties, notably in regard to the provision of financial information, and eliminate duplication and reduce costs...by modernizing the Act and harmonizing with provincial laws."*

The proposed amendments also make changes to the *Canada Cooperatives Act* in order to harmonize its provisions for corporate governance with the proposed CBCA amendments.

We will keep you advised of any news regarding these amendments. You can also visit Industry Canada's website at <http://strategis.ic.gc.ca> for up-to-date information.

## MHR

### UPDATE

## MHR Forms

Effective April 1, 2000 the Manufactured Home Registry combined the 8 forms used for exempting manufactured homes and reduced them to only 3 forms. These new forms are to be used in the following circumstances:

### Manufactured home located on land owned by the owner of the home

The cost to file is \$50.00, a tax certificate is not required and the application does not need to be commissioned. A current land title search confirming ownership will be required with this application.

### Manufactured home destroyed, dilapidated or dismantled

There is no cost to register this application and it is no longer required to be commissioned. Where a home has been destroyed to the extent that it no longer complies with the definition of a manufactured home, owners will no longer be required to comply with the Act from the date of destruction, dismantling or determination of dilapidation. Where a registered owner of a destroyed unit cannot be found, a "Proof of Loss" form from the insurance company may be accepted to exempt the home. This alleviates the need to obtain transfers for what is no longer a home. If a home exempted for one of these reasons is later rebuilt and reregistered, CSA requirements will again apply.

### Manufactured home that has been converted under section 1C of the Manufactured Home Act

An example of a manufactured home that has been converted is an office, bunkerhouse or storage shed. The cost to file is \$50.00 and the application must be commissioned.

If you would like further information about these new forms, please contact our Victoria office at 405-6000 or toll-free at 1-800-667-7767 or e-mail your request to [service@wcts.com](mailto:service@wcts.com)

## Asked & Answered

We are pleased to answer the following Land Titles related question.

**Question:** *How do I release a Restrictive Covenant or Easement when there are servient and dominant lands?*

- Answer:**
- Use a FORM C.
  - **Item 2 - Legal Description** must show the servient lands (i.e. the lands where the restrictive covenant or easement shows as a charge).
  - **Item 3 - Description** must show the dominant lands (i.e. the lands where the restrictive covenant or easement shows as a legal notation). e.g. "**Release of Restrictive Covenant X100 appurtenant to \_\_\_\_\_** (show PID and legal of dominant lands)."
  - **Item 3 - Document Reference** is "NA".
  - **Item 3 - Person Entitled to Interest** is "Transferee".
  - **Item 5 - Transferor** is the name(s) of the registered owner(s) in fee simple of the **dominant** lands.

**Note:** All mortgagees on the dominant lands (filed **after** the restrictive covenant or easement ) must consent to the release either by signing it or by attaching a consent.

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

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

## Keeping You Informed

Below is a list of memorandums and notices that were issued since February, 2000. If you require additional copies, please call Sue Sharma or Nina Andrews in 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 / MHR

None Issued

### COURT

- **January 27, 2000** - Civil Emergency After-Hours Applications
- **February 4, 2000** - Vancouver Supreme Court - Praecipe Requirements for Rule 65 Chambers Adjournments
- **March 2, 2000** - Changes to Section 112 of the Estate Administration Act
- **March , 2000** - Judges Chambers Calendar for April - June, 2000

### LAND

None Issued

## Web Survey Winner

We are pleased to announce that **Lynn Pratt** of **Lawson Lundell** won our *Website Survey* gift certificate of \$100.00 to the restaurant of her choice. **Congratulations to Lynn and thanks to all who participated in our survey.** We received good input on what is liked about our site and excellent suggestions on what we can do to make our website a more useful source of up-to-date information.

Some of the improvements to our website ([www.wcts.com](http://www.wcts.com)) are:

- more links to other useful sites
- News & Updates section where you can view and print the most recent registry memos
- Pre/Post Judgment Interest Rates

In the future, we hope to be able to offer our clients e-mail updates and memos. We are working on making the format as easy as possible for clients to download with few delivery problems

If you have any suggestions or information you would like to share with us, please e-mail them to our Client Services department at [service@wcts.com](mailto:service@wcts.com) Your feedback is greatly appreciated.



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

Toll Free: 1-800-553-1936

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

Toll Free: 1-800-806-2788

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

Toll Free: 1-800-667-7767



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