



The Register

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Process Serving UPDATE

Introducing Our New In-House Skip Tracer

We are pleased to welcome *Eduardo Lopez* to our Process Serving Team as our new in-house Skip Tracer. Eduardo brings four years of experience in skip tracing and process serving to West Coast. We are delighted to have him join our team.

At West Coast we understand that witnesses, defendants and clients are crucial to your case. We also understand how important it is for us to locate them as quickly and as inexpensively as possible. Having our own in-house Skip Tracer allows us to provide you with the same superior quality service that West Coast has been known for since 1969.

Our fee for a located skip trace in British Columbia is \$150.00 *plus disbursements*; \$200.00 *plus disbursements* if located outside BC; \$250.00 *plus disbursements* if located in the US and \$300 minimum, *plus disbursements* if located elsewhere. If you would like to discuss skip tracing or have any requests, please contact Eduardo at 604.659.8720 or toll-free at 1.800.806.2788.

The Flat Rate Process Serving Plan™

Since 1995 West Coast has offered the very popular 30/50/70 *Flat Rate Process Serving Plan™*. This plan lets you know the cost before you send in the work. With West Coast Process

Serving there are no fees for attempts, no charge for kilometres and no additional charges for Rule 12 services or additional actions served. We also provide regular field reports to keep you informed of the status of an ongoing service as well as a service confirmation report when the service is completed. Our six full time professional process servers are dedicated to giving you prompt, reliable, superior service. For your process serving requests *within the Lower Mainland*, contact Rhonda Kinna, our Process Serving Coordinator at 604.659.8725 or toll-free at 1.800.806.2788.

We also can handle all your process serving needs throughout BC, Canada, the United States and internationally. We are a member of the *National Association of Professional Process Servers (NAPPS)*, the top North American professional association. We can arrange for service in all countries which are signatories of the Hague Service Convention. To obtain your **free** quote for service *outside the Lower Mainland*, contact Jolene Ewaski, our Out of Area Process Serving Coordinator at 604.659.8722 or toll-free at 1.800.806.2788.

★ Free Process Serving Guide ★

To obtain a complimentary copy of our exclusive *Practical Guide to Process Serving in British Columbia*, please contact 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.

Court

UPDATE

Resetting Applications Under Rule 51A

The first time a Notice of Motion or Petition is set down for hearing, a Notice of Hearing is filed. Only **one** Notice of Hearing is ever filed. To reset applications under Rule 51A, a praecipe must be filed and must include the following information:

- the date the application was originally set for and adjourned from;
- the new date on which the application is to be heard;
- whether or not the new hearing date is by consent;
- a revised time estimate; and
- whether or not it is in the jurisdiction of a Master, and if not, why not.

All reset praecipos must have the *place* and the *start time*. Chambers applications all start at 9:45 a.m. unless they are specially booked through Trial division. A **filed** copy of the Notice of Motion or Petition must be attached to the praecipe. If the time estimate is over 30 minutes, then the Chambers record must also be refiled. If a binder is being filed, the 2 day filing window applies.

Interest Calculations On Default Judgments

Please be advised that the Provincial Court Small Claims Registries now require proof of any agreed upon annual rate of interest which is contrary to the *Court Order Interest Act*. This proof can be provided in the form of a photocopy of the contractual document which must be produced at the time of filing the Application for Default Order. *If proof is not provided*, interest will be granted at Court Order interest rates. *If proof is not available*, the application must be heard before a Judge.

Vancouver Divorce Certificates

The Vancouver Court Registry now requires authority from our clients in order for us to pick up divorce certificates. The authorization can be on the praecipe asking for the divorce certificate or it can be on a separate letter.

Vancouver Family/ Divorce Trials

Commencing September 1st, 2003, all family matters *two hours or less* must be held on Mondays, Wednesdays and Fridays. Family matters *over two hours* are still to be booked through Trial Division by calling 604-660-2853. For urgent matters that you wish to have heard on Tuesdays or Thursdays, the lawyer should come to the Registry with the documents to attend the Family counter. If the Registry considers the matter urgent enough, the lawyer will be sent up to Court to have the matter heard.



Court Staff ANNIVERSARY



On August 2nd, 2003, **Alison Hughes**, from our **Vancouver Court** department, celebrated her **15th Anniversary** with West Coast. On behalf of Wayne Crookes, Owner/President and all the staff, we would like to congratulate Alison for her many years of dedicated service and say "Thank You For a Job Well Done!"

Chambers Update

Just a reminder that there will be no Masters or Judges sitting on November 13th and 14th due to a Judges' Conference in both Vancouver and New Westminster.

Court Orders

Amending Documents

When amending a document pursuant to an order, the upper left hand corner of the document must state, "*amended pursuant to the order of.....*". **Note:** A copy of the amending order must be shown to the court clerk at the time of filing.

Transferring Files

If an order is obtained transferring a file for all purposes to another Registry, a praecipe must be filed, *with an entered copy of the order attached*, requesting the Court to move the file. Just filing the order will not move the Court to transfer the file.



Corporate

UPDATE

Business Corporations Act - Update

The implementation date of the new *Business Corporations Act* (the Act), which replaces the *Companies Act*, has been extended to early 2004. The systems development is largely completed but final testing must still be done by the project team. Testing will result in additional development work being done through mid-fall. User acceptance testing is expected in January 2004. The draft forms for registration, both online and paper, and online screens are now available for viewing at the *Business Corporations Act Project* website at www.fin.gov.bc.ca/registries/colin/default.htm. Also available is the status of the project and other helpful information.

Mandatory Online Filings

Once the Act is in force, the following filings will be mandatory online filings:

- Incorporations
- Amalgamations (unless a foreign corporation is involved)
- Alterations
- Transitions (includes post-restoration transitions)
- Continuations into BC
- Annual reports (BC and Extra-Provincial)
- Change of registered and records office addresses
- Change of directors

Memorandum, Articles and other supporting documentation for amalgamations and alterations will no longer be filed at the Corporate Registry. Instead, one or two page notices will be filed online containing prescribed information. The actual documents will be kept on file at the records office. All other filings will continue to be paper filings submitted to the Corporate Registry for manual filing.

Transition to the new Act

All BC companies that were created before the *Business Corporations Act* comes into force will have **two years** from that date to file a Transition application on Corporate OnLine. This will be a mandatory filing. Transition must be completed before any changes to the corporate name and/or Notice of Articles are made. Certain filings may be done online prior to the company being transitioned to the new Act. We have been advised that records offices may wait until their companies' anniversary dates to transition, as this will allow the work to be spread out over the 1-2 year transition period rather than being done all at once.

Corporate Registry Fee Increases

Certain fees in the Corporate Registry have been increased. The increase is to offset the cost of the new *Business Number Initiative*, a project that will allow British Columbians to do business with multiple levels of government using one common business identifier – the federal Business Number. The new fees were effective July 14, 2003.

- Partnership/Proprietorship
New Fee - \$40
- Change of Business Name or Membership
New Fee - \$40
- Incorporations/Amalgamations, Restorations (of a BC extra-provincial or limited liability company)
New Fee - \$350
- Continuations (into or out of BC)
New Fee - \$350

Note: For a certified copy of registered documents, an additional fee of \$25 is required.

West Coast's fees for these services have not changed.

MHR

UPDATE

New Manufactured Home Act

A new *Manufactured Home Act* (MH Act) will be implemented sometime this Fall. The anticipated target date is mid-November, 2003. One of the changes brought in with the new MH Act will be online registration of transfers and residential exemptions. In preparation for this online capability, the Registry is looking into the accessibility to the registration system and is considering limiting access to three Qualified Supplier groups:

- 1) lawyers/notaries who have a BC Online account
- 2) manufacturers
- 3) other service providers

“*Other Service Providers*”, the group in which Registry Agents would fall, must submit bids to the Registry indicating how they meet the criteria of being a Qualified Supplier. As Registry Agents, we are concerned about our qualifications and have met with the Registry to discuss alternatives. One suggestion is setting up a system whereby a registering party can register the documents but the Qualified Supplier (which would be listed on the registration) would take responsibility for document storage, liability and knowledge of the MH Act and MH common law, etc. We have been advised that the Registry is considering the ideas that have been brought forth and will be making their decision soon.

If you are interested in voicing your concerns over the Registry's limiting access to the online system, we encourage you to contact your MLA, (www.legis.gov.bc.ca/mla/3-1-1.htm), the MHR Registrar John Powell (john.powell@gems2.gov.bc.ca) and MH Administrator Ruth McIver (Ruth.McIver@gems1.gov.bc.ca).



Land

UPDATE

Victoria LTO To Close

Hon. Stan Hagen announced that the *Victoria* Land Title Office will be closing to the public as of April 1, 2004. All Vancouver Island/Gulf Island land titles information will be transferred to and be accessible from the Consolidated Land Title Office in New Westminster. Our Victoria clients can continue to send their land titles work to New Westminster through our Victoria office.

Easements

Background

An easement is the right granted by one owner (grantor/**servient** tenement) to another owner (grantee/**dominant** tenement) to enter and use the grantor's land in a way that will benefit the grantee. Generally, it imposes an obligation to allow some act, i.e. it is positive in nature. *For example:* Lot B is directly behind Lot A. There is no direct access to Lot B. To allow the owner of Lot B access through the Lot A property, Lot A grants an easement to Lot B.

Note: The easement will appear as a charge on the title to Lot A (the **servient** lands) and as an "annexed" charge under *legal notations* on the title to Lot B (the **dominant** lands).

How to Register in Land

To file an easement in the Land Title Office, use a **Form C**. In most cases, express charge terms will be attached to the Form C as "*Terms of Instrument – Part 2*". If the easement is a blanket easement over the *whole lot*, a plan is not required. If the easement is over a *part of the lot*, a full set of explanatory plans must accompany the easement document.

Completing the Form C

The key points to remember to correctly complete the Form C are as follows:

Item 2 - Parcel Identifier(s) and Legal Description(s) of Land

- Enter the PID and legal description(s) of the **servient** lands.

Item 3 - Nature of Interest

- Under *Description* enter the word "Easement" if the easement is over the whole lot (See **Example 1**) or "Easement *over part shown on Explanatory Plan _____*" if the Easement is over only part of the lot (See **Example 2**); **Note:** The plan number will be inserted at the time of filing.
- Under *Document Reference*, enter the words "Entire Document".
- Under *Person Entitled to Interest*, enter the words "Transferee – Registered Owner of *insert the PID and complete legal description of the dominant lands*".

Item 5 - Transferor(s)

- Enter the name of the registered owner of the **servient** lands.

Item 6 - Transferee(s)

- Enter the name, occupation and full postal address of the registered owner of the **dominant** lands.

Item 8 - Execution(s)

- It is only necessary for the transferor (owner of the **servient** lands) to execute the Form C.

Special Notes

If there is more than one **servient legal** shown in Item 2, then you must apply for a separate easement for each **servient** land. (See **Example 3**)

- In **Item 3** under *Description*, enter the words "Easement *over Lot ____*" or "Easement *over part of Lot ____ shown on Explanatory Plan _____*" (whichever is applicable) to correspond to each of the **servient** lands.

- In **Item 3** under *Person Entitled to Interest* enter the PID and legal description of the **dominant** lands for each easement.

Land Title Office Fees

- LTO fees for filing an easement are \$55.00. If you apply for more than one easement in the same document, LTO fees will be \$55.00 for each easement.

Priority Agreement Contained in Easement

If the easement document contains a priority agreement, either included in the Terms of Instrument, or by way of a *consent to priority* attached to the Form C, the priority agreement must be applied for as a separate interest. (See **Example 1**)

In **Item 3** under *Description* enter a complete description of the priority agreement, including the nature and number of all charges affected. **This means that you must include the nature and number of the easement itself**, e.g., "*Priority agreement granting Easement BV _____ Priority over Mortgage A1234.*" The registration number given to the easement will be inserted at the time of filing. Under *Document Reference* enter the specific page where the priority agreement is set out. Under *Person Entitled to Interest* enter the word "Transferee".

In **Item 5**, along with transferor information for the easement, the name of the charge holder granting the priority must be shown, with the words "*as to priority agreement*" added after the name of the charge holder. Both the registered owner of the **servient** lands and the owner of the charge granting the priority must execute the Form C.

LTO fees are \$55.00 for each **subsequent** charge being given priority, no matter how many prior charges are granting priority.

**EASEMENT EXAMPLES**

EXAMPLE # 1 - Where the easement is over the whole lot and a priority agreement is contained in the easement document. LTO Fees are \$110.

2.	PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND: (PID)		(LEGAL DESCRIPTION)
	023-098-872		Lot A Block 23 Sec 11 Tp 5 Plan LMP23793
3.	NATURE OF INTEREST:		
	DESCRIPTION	DOCUMENT REFERENCE	PERSON ENTITLED TO INTEREST
	(page and paragraph)		
	Easement	Entire Document	Transferee: RO of 018-963-846 Lot 1 Sec 11 Tp 5 NWD Plan LMP18996
	Priority Agreement granting Easement BV _____ priority over Mortgage BK118575	Page 6	Transferee
5.	TRANSFEROR(S):		
	Carmel Projects Ltd. Inc. # 557822 (as to Easement) and Scotia Mortgage Corporation Inc. # A23965 (as to Priority Agreement)		

EXAMPLE # 2 - Where the easement is over part of the lot. LTO Fees are \$55.

2.	PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND: (PID)		(LEGAL DESCRIPTION)
	023-844-582		Lot 11 DL 223 Gp 1 NWD Plan LMP33705
3.	NATURE OF INTEREST:		
	DESCRIPTION	DOCUMENT REFERENCE	PERSON ENTITLED TO INTEREST
	(page and paragraph)		
	Easement over part shown on Explanatory Plan BCP _____	Entire Document	Transferee: RO of 023-844-591 Lot 12 DL 223 Gp 1 NWD Plan LMP33705

EXAMPLE # 3 - Where there is more than one servient land. LTO Fees are \$110.

2.	PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND: (PID)		(LEGAL DESCRIPTION)
	017-912-377 017-912-385		Lot 1 Sec 9 Tp 8 NWD Plan LMP6208 Lot 2 Sec 9 Tp 8 NWD Plan LMP6208
3.	NATURE OF INTEREST:		
	DESCRIPTION	DOCUMENT REFERENCE	PERSON ENTITLED TO INTEREST
	(page and paragraph)		
	Easement as to Lot 1	Entire Document	Transferee: RO of 017-912-393 Lot 3 Sec 9 Tp 8 NWD Plan LMP6208
	Easement as to Lot 2	Entire Document	Transferee: RO of 017-912-393 Lot 3 Sec 9 Tp 8 NWD Plan LMP6208

E-Mail Alert**info@wcts.com**

If you are e-mailing replacement pages for an ongoing registration file, our office staff will send confirmation, generally within five minutes, so that you will know your e-mail has been received. **If you do not receive confirmation from us within 15 minutes of sending your e-mail**, please contact Marian Bragg or Helen Ternan in our New Westminster office at 604.659.8600 or toll free at 1.800.553.1936.

If you wish to release a Hold or if you have additional instructions relating to an ongoing registration file, **please do not send these instructions via e-mail**. To ensure your request is dealt with immediately, please call the appropriate West Coast department directly. In *New Westminster*, call 604.659.8600 or toll free at 1.800.553.1936. In *Victoria*, call 405.6000 or toll free at 1.800.667.7767.

Partial Interests in Land

When dealing with a **partial interest** in land, the partial interest must always be shown in Item 2 *with the legal description*, not with the party's name. A partial interest is shown with the party's name only when there is more than one party and each party is taking an unequal interest. All partial interests must be shown as fractions with the lowest common denominator. Percentages and decimal points in fractions are not acceptable for land title purposes.

Where transferees are taking **unequal interests of a partial interest** shown in Item 2, their respective interests must be shown as fractions of the interest being transferred (not as fractions of the whole land). In this instance, the fractional shares for each transferee must total to 1.



Asked & Answered ~ A Process Serving Question

Question:

If someone is living in a basement suite at a residence and the occupants on the main floor suite of the residence confirm that this person lives there and are willing to accept the documents, *would this be considered proper service in accordance with Substituted Service Rule 12(4)?*

Answer:

No. The Rule states that the documents can be left with anyone "who appears to be an adult member of the same household". One house with two or more separate suites would be considered two or more separate households, therefore this would not be considered proper service.

*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.

COURT

- **June 3, 2003** - Summer Schedule - Additional Chambers Dates for Victoria Court of Appeal
- **June 16, 2003** - Name Search results obtained through BC OnLine between May 20th and June 9th, 2003 may be incomplete and inaccurate
- **June 19, 2003** - Effective July 14, 2003, selected fees will be increased to offset the cost of the new Business Number Initiative
- **June 23, 2003** - Vancouver Lengthy Chambers Scheduling
- **July 2, 2003** - Hearings Before the Registrar
- **July 31, 2003** - Photocopying and Faxing Charges
- **August 14, 2003** - Unavailable Dates for the Master in September, November and December 2003

- **August 27, 2003** - Family Chambers Applications in the Vancouver Registry
- **September 19, 2003** - Unavailable Dates for the Master in the Month of October 2003

E-Mail Service

info@wcts.com

Work requests may also be sent to us via e-mail to info@wcts.com. These requests will be received in our New Westminster office and forwarded to the appropriate West Coast office where your work request will be processed. **Our office staff will forward confirmation by e-mail, generally within five minutes, so that you will know that your request has been received.**

If you do not receive confirmation from us within 15 minutes, please contact Marian Bragg or Helen Ternan in our New Westminster office 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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