



The Register

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Land

UPDATE

Charges Prohibiting Final Registration of Land Documents

There are a number of charges which, if already registered on title, will prohibit the final registration of any documents filed subsequent to them. Following is a list of the most common charges that must be dealt with prior to final registration of any new documents.

Caveat

Stops all registrations.

Except:

- (a) Involuntary charges, e.g. Claim of Lien, Judgment, CPL.

Note: A Caveat expires after 60 days unless a court action has been commenced.

Certificate of Pending Litigation (CPL)

Stops all registrations.

Except:

- (a) Documents filed "*Subject to the CPL*" (by way of a "*subject to*" clause or an *Election Letter*);
- (b) Involuntary charges, e.g. Caveat, Claim of Lien, Judgment, CPL;
- (c) Priority Agreement;
- (d) Assignment of a charge, if the charge was filed prior to the CPL;
- (e) Sub-lease, if the lease from which it was derived was filed prior to the CPL.

Land (Spouse Protection) Act Charge (LSPA)

Stops all registrations.

Except:

- (a) Involuntary charges, e.g. Caveat, Claim of Lien, Judgment, CPL;
- (b) Non-financial charges, e.g. Easement, S. 219 Covenant;
- (c) Severing a joint tenancy (the LSPA will carry forward to the appropriate spouse's title);
- (d) Mortgage, where the spouse who filed the LSPA consents to the mortgage, either by executing the Form B or by attaching a separate consent to the Form B.

Land Tax Deferment Act Agreement

Stops all transfers, fee simple orders and rights to purchase.

Tax Sale Notice

Stops all registrations.

Except:

- (a) Involuntary charges, e.g. Caveat, Claim of Lien, Judgment, CPL.

Pre-Inspection of Land Documents

West Coast conducts a thorough pre-inspection of your documents prior to filing *whether or not you request a pre-index search*. This inspection includes checking the nature of charges on the search/STC that you enclose with your documents and advising you of any charges on title that may affect the final registration of the documents being submitted.

Charges That Do Not Prohibit Registration

There are a number of charges/interests on title which are "negative" in nature but which do not prohibit the final registration of documents filed subsequent to them.

Following is a list of the most common charges/interests which do not prohibit final registration:

- Claim of Lien
- Corporation Capital Tax Act Lien
- Crown Debt
- Judgment
- Property Transfer Tax Act Lien

Note: It is **not** necessary to indicate "Subject to" the above noted charges on your document.

Trust Documents

Catherine Greenall, Registrar of the Lower Mainland Land Title Office, has advised that, effective October 1, 2001, trust documents can no longer be filed separately as a DF (Document Filed). All trust documents will have to be filed *in support of* the application that relates to the trust. By filing the trust document as a supporting document, the trust document will only have to be examined once by the LTO examiner, at the same time as the document to which it relates is examined.

If other documents are filed which also deal with the same trust, just refer to the registration number of the document where the original trust is attached. This practice is most commonly seen on Form B mortgages where the lender is a financial institution "In Trust" for an RRSP Plan, e.g. *The Toronto-Dominion Bank, In Trust for Plan 12345, see BR5679*. In this example, the original trust document has been filed in support of the mortgage filed under number BR5679.

Transfer of Charge Ownership

On the majority of titles to land, the only indication that there has been an assignment or transfer of a charge is that a **different** charge number will appear below the name of the charge holder. The original charge number and the date that the original charge was filed will appear below the nature of the charge. The name of the **new** charge holder will be shown in the ownership section and the charge number for the transfer of ownership will be shown below the new charge holder's name.

If the charge has been assigned or transferred several times, only the **last** assignment or transfer of charge number will be shown below the ownership section and all previous assignments or transfers will be shown in the Remarks section.

Example:

Mortgage (Nature of Interest)

A1234 1973-01-02 11:52 (Original mortgage and registration date)

Registered Owner of Charge

Bank of Montreal (Current charge holder)

BR5678 (Most recent assignment of mortgage)

Remarks: Assignment of **A1234** (original mortgage) see **C1234** and **D5678** (previous assignments).

Note: When dealing with a charge that has been assigned or transferred, the whole history of the charge must always be shown.

LTO Turnaround Times

The main factor affecting turnaround times in the Land Title Office is *volume*. When volumes are heavy, turnaround times are longer. When volumes are light, final registration of routine applications can be completed *the same day*.

At mid-month and month-end, volume increases significantly. In the *Lower Mainland* Land Title Office, the number of documents filed can increase by as much as 200% during the month-end period!

Following is a list of the current *estimated* turnaround times for final registration of pending documents in the Victoria and Lower Mainland Land Title Offices. These times are not definitive and are *subject to change at any time*.

<u>Applications</u>	<u>Lower Mainland</u>	<u>Victoria</u>
Registrations	2 to 5 days	2 to 3 days
Releases	2 to 5 days	1 to 2 days
STCs	1 to 3 days	1 day
Survey	6 to 8 days	2 to 4 days

Note Re STCs: STCs filed with a *client number* will usually be issued before STCs filed without a client number.

Note Re Survey: Turnaround times will depend on the complexity of the plan package and the number of titles to be raised.

Tax Information

UPDATE

Tax Disbursements

West Coast obtains tax information from over 100 municipalities, cities and districts in British Columbia. Disbursements vary, depending on the municipality and *are subject to change at any time*. The following is a list of the most common municipalities, cities and districts in the Lower Mainland with their current disbursements as of **September 1, 2001**. Disbursements in bold are recent fee increases.

Municipality City/District	Tax Disbursement
Abbotsford	\$20.00
Anmore	\$10.00
Belcarra	\$20.00
Burnaby	\$20.00
Chilliwack	\$15.00
Coquitlam	\$20.00
Delta	\$15.00
Gibsons	\$10.00
Harrison Hot Springs	\$20.00
Hope	\$10.00
Kent	\$15.00
Langley (City)	\$10.00
Langley (Mun.)	\$25.00
Lions Bay	\$10.00
Maple Ridge	\$35.00
Mission	\$16.85
Musqueam Indian Band	\$20.00
New Westminster	\$20.00
North Vancouver (City)	\$20.00
Pemberton	\$10.00
Pitt Meadows	\$25.00
Port Coquitlam	\$20.00
Port Moody	\$15.00
Powell River	\$22.00
Richmond	\$15.00
Squamish	N/C
Surrey	\$20.00
Vancouver	\$25.00
West Vancouver	\$20.00
Whistler	\$20.00
White Rock	\$15.00

Tax Requests

In order to prevent unnecessary delays, please provide at least **two** of the following pieces of information when requesting tax information:

- Civic Description
- Legal Description
- Roll Number

Most municipalities require this information before they will release any property tax details.

Tax Turnaround Times

Turnaround times vary, depending on the municipality. Most municipalities provide tax information within 1 to 2 days, although some may take up to 5 days. During busy billing periods, e.g. *advance billing, tax due date and utility updating*, turnaround times can increase to 7 to 10 days. **Note:** If you require tax information on a Rush basis (i.e. *within a few hours*), you should be aware that some municipalities may charge an additional fee for the rush service. *Port Coquitlam* and *Port Moody* are two municipalities that apply a rush surcharge of \$50.00.

Tax Information vs BC Assessments

Tax information (tax certificate) includes the amount of taxes charged on the property, the amount owing, the amount of the Homeowner Grant (if applicable), as well as any penalties incurred. Some municipalities will also include assessment information and/or utility information on their tax certificate.

BC Assessment Authority (BCAA) information includes property and building assessments for the current year and usually for the previous year as well. It may also include previous sales information, such as dates of the most recent sales.

Court

UPDATE

Pre & Post Judgment Interest Rates

West Coast issues information concerning pre and post judgment interest rates twice a year. Pre and Post judgment interest rates are usually calculated every six months. Interest for the first six months is calculated as of January 1st. Interest for the last six months is calculated as of July 1st.

Pre-judgment interest is calculated from the date the cause of action arose to the judgment's pronouncement date, i.e. *the date on which the judge enunciated the order*, not the entry date of the judgment. Where judgment was reserved and the judge later issued written reasons for judgment, the pronouncement date is *the date on which the judge signed the reasons*.

Post-judgment interest is calculated from the judge's pronouncement date to the satisfaction date, i.e. *the payment date*.

When calculating pre and post judgment interest, several calculations may have to be made if the time period involved spanned several interest rate fluctuations. Examples of how to calculate interest may be found on page 265 of the *Guide to Civil Litigation*.

Our most current *Pre & Post Judgment Interest Rates* sheet includes interest rates **from July 1, 1987 up to and including December 31, 2001**.

If you have not already received our most recent *Pre & Post Judgment Interest Rates* sheet or if you would like additional copies, please contact Kelly Buziak in our Client Services department at 604-659-8686 or toll free at 1-800-553-1936. You may also view these rates from our website www.wcts.com, under the *Judgment Rates* button, or e-mail your request to info@wcts.com

Rule 51A - Filing Requirements

Rule 51A came into effect on July 1, 2001. Since its implementation, some problems have arisen due to different interpretations of Rule 51A which have resulted in slightly different practices in the various Court Registries.

To Adjourn A Hearing

To adjourn a hearing, the applicant must apply:

- *By praecipe* - up to 4 p.m. the day before the hearing (**Vancouver** will accept a praecipe by fax up to 9:00 a.m. the day of the hearing);
- *In person* - after 9 a.m. the day of the hearing; or
- *By phone* - up to 9 a.m. the day of the hearing (except **Vancouver**).

Adjournments must be *by consent* or *due to non-service* and may be generally or to a new date. If a motion was filed prior to July 1, 2001, to be heard on a date after July 1 2001, it is exempt from Rule 51A. In **New Westminster**, if the motion is adjourned and reset, it will now fall under Rule 51A. **New Westminster** has also ruled that all motions filed prior to July 1, 2001 get one 'free' hearing, i.e. they can be adjourned **once** and not have to comply with Rule 51A.

To Reset A Hearing

Chambers applications may be reset by filing:

(1) A *praecipe* setting out the following:

- the new date of hearing;
- whether or not the new hearing date is by consent;
- whether or not the matter is contentious;
- the time estimate for the application;
- a brief description of the nature of the application;
- whether the application is within the jurisdiction of a master, and if not, why not;
- if the file is a **New Westminster Divorce** or a *Family Relations Act* file, which judge or master has been assigned;

(2) Two copies of the *motion* or *petition* marked to indicate the relief to be spoken to at the hearing (**Vancouver** only requires one copy of each); and

(3) The *Chambers record* (for applications *over 30 minutes*). Although not mandatory, all Courts have indicated that preference will be given to short applications (*30 minutes or less*) that have a binder. If a binder is prepared, then the entire submission must comply with Rule 51A.

How Many Copies To Submit

Rule 51A(3) states that the Court will keep the original Notice of Motion and Notice of Hearing plus two copies. The original is for the file and the copies are for the clerk and judge or master. **Vancouver** Court clerks have been taking the original and one copy because this was the practice under Rule 65. If you would like a stamped copy returned to you, please submit an extra copy in addition to the copies required by the Court.

Filing Windows

Short - 30 minutes or less

- Short applications may be adjourned and reset *on the same praecipe*. (**Vancouver** requires a separate praecipe to reset.)
- A marked copy of the motion or petition must be attached to the praecipe.
- Short applications may be reset *any time before noon the day prior to the date set for the hearing*.

Long – over 30 minutes

- Long applications require *two separate praecipis*, one to adjourn and one to reset.
- Two copies of the marked motion must be attached to the binder. (**Vancouver** only requires one copy.)
- Long applications may be adjourned at any time but must be reset between *9:00 a.m. two days prior to the hearing and noon the day prior to the hearing*.

Court Files

Rule 51A(17) states that Court files will no longer be brought into Chambers unless:

- The Notice of Motion was filed prior to July 1, 2001;
- The application is exempt from Rule 51A; or
- The file is requested pursuant to Rule 51A (17).

However, **New Westminster** and **Vancouver** will still take the file into Court, unless a binder is prepared. All Courts will hold binders for two weeks. If they're not retrieved during this time, they will be destroyed. **Victoria** requires all binders to be labeled, both on the front cover and the spine, indicating file number, names of parties and the date of hearing.

In **Victoria**, for applications *without notice* or applications *less than 30 minutes*, the following must be filed:

- Original and 3 copies of the Notice of Motion and Notice of Hearing;
- Original and one copy of all affidavits;
- One copy of any previously filed affidavit referred to.

Short Leave

If a party is unable to comply with the time requirements set out in Rule 51A or reach an agreement with the opposing party to shorten the time limits, counsel may make an application for short leave pursuant to Rule 3(3.1). Counsel files a short leave praecipe with supporting material and attends for the hearing of the application. If the application is granted, materials are filed as usual.

For filing information regarding the **Chilliwack** registry, please contact our **New Westminster Court Department** at 604-659-8630 or toll-free at 1-800-553-1936. For the rest of the province, please contact our **Vancouver Court Department** at 604-659-8701 or toll-free at 1-800-806-2788.

Victoria

UPDATE

Vancouver/Victoria Courier Bag Service

West Coast offers two daily inter-office deliveries between our Vancouver and Victoria offices: a **mid-day** service from *Vancouver to Victoria* and a reciprocal **evening** service from *Vancouver to Victoria* and from *Victoria to Vancouver*.

SAME-DAY-SERVICE

The **mid-day courier bag** leaves our **Vancouver** office at **11:15 a.m.**, arriving in Victoria by 1:15 p.m. the same day. Work destined for this mid-day service must be in our **New Westminster** office **no later than 10:15 a.m.** and in our **Vancouver** office **no later than 11:00 a.m.** *Note: There is no mid-day courier bag service originating from our Victoria office.*

OVER-NIGHT SERVICE

The **evening courier bag** leaves our **Vancouver** office at **5:00 p.m.**, arriving in Victoria by 8:15 a.m. the following morning. Work destined for the *Vancouver/Victoria* courier bag must be in our **New Westminster** office **no later than 2:15 p.m.** and in our **Vancouver** office **no later than 4:45 p.m.**

A reciprocal **evening courier bag** leaves our **Victoria** office at **4:30 p.m.** arriving in Vancouver by 8:00 a.m. the following morning. Work destined for the *Victoria/Vancouver* courier bag must be in our **Victoria** office no later than **4:15 p.m.**

Please refer to your Route Schedule to determine when work picked up on your runs arrives at our West Coast offices. If you would like a copy of your firm's **Route Schedule**, please contact Kelly Buziak in our Client Services department at 604- 659-8686 or toll-free at 1-800-553-1936. You may also e-mail your request to info@wcts.com

Weather Warning

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

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

PPR

UPDATE

Searching the Personal Property Registry

Searching the Personal Property Registry (PPR) requires some thoughtful consideration when deciding what criteria should be used, especially when searching **serial numbered goods** such as *aircraft, motor vehicles, boats manufactured homes and business debtor names.*

Aircraft

In Canada the basis of registering an aircraft is not 'title' but rather 'legal custody' of the aircraft. Actual ownership may be a bank or other corporation or an individual. Because of this, it is prudent to search both the current owner and past owners, as well as the aircraft call letters to determine if any liens or charges are registered against the aircraft. Other jurisdictions where the aircraft has travelled may also have to be searched to determine if liens or charges were registered against the aircraft while in that jurisdiction.

From **October 1990 to September 1992**, aircraft components and parts, such as engines and propellers with specific serial numbers, could be registered at the Personal Property Registry. Therefore, it may be necessary to search these serial numbers as well to determine if any liens or charges are registered against these components.

Motor Vehicles and Other Serial Numbered Collateral

PPR will not verify ownership of the vehicle but a search of the *vehicle identification number* should locate liens and charges registered against the vehicle. However, some statutory and common law liens which do not have to be registered by vehicle identification number at the Personal Property Registry may be found only by searching the name of the registered owner of the vehicle.

As for private sales of motor vehicles and other serial numbered collateral, the Personal Property Registry suggests it is best to search under both the serial number of the vehicle and the name(s) of the previous owner(s). This should result in details of all liens and security interests that are required to be registered being found.

Business Debtor Names

Searching a business debtor name will require knowing the history of the company and if it has changed its name at any time. If charges or liens were registered in the old corporate name, they likely will not be found by searching the new name only. The secured party has a responsibility to act promptly to ensure that when a business debtor changes its name, an amendment be filed at the Personal Property Registry showing the change. Because of this, the Personal Property Registry suggests that when searching debtor names, a search of the debtor's previous name(s) (corporate and/or individual) should also be considered.

Asked & Answered

We are pleased to answer the following question related to **Process Serving**:

Question: *How do you serve documents outside of British Columbia?*

Answer: Documents are served outside of British Columbia either:

- according to the Rules for service in British Columbia;
- according to the Rules for service at the place where service is made; or
- according to the Hague Convention on International Service of Judicial Process [Rule 13(12)].

Service *Ex-juris*, outside of British Columbia, is governed by Rule 13 and requires the addition of the following endorsement on the front of the document being served:

"The plaintiff claims the right to serve this (document e.g. Writ of Summons) on the Defendant, (name of Defendant) outside British Columbia on the ground that... (list reasons as set out in Rule 13(1)) pursuant to the Supreme Court of British Columbia, Rule 13 (1) (list Rule)."

"You asked . . . We answered."

Keeping You Informed

The following is a list of memorandums and notices that we have sent out since June, 2001. If you require additional copies, please call Kelly Buziak in our Client Services department at 604-659-8686 or toll free at 1-800-553-1936. You may also view these updates on our website www.wcts.com, under the *News and Updates* button or e-mail your request to info@wcts.com

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None Issued

COURT

- **September 14, 2001** - Judges' Chambers in Victoria
- **August 28, 2001** - Vancouver Family Trial Scheduling
- **August 16, 2001** - Procedures for Rule 51A
- **August 16, 2001** - New Westminster Civil Trial Scheduling
- **July 23, 2001** - Unavailable dates for a Master in September, October, November and December for Victoria
- **July 3, 2001** - Practice Direction Re: Changes to Chambers Practice - Filing Window

LAND

None Issued

Memorandums By E-Mail Or Facsimile

"Keeping You Informed" about industry issues and practices has been one of the many value-added services West Coast has always been pleased to provide. We currently distribute updates and memorandums that we receive from the Courts or government through our run system or by mail in a paper format. The time it takes to reproduce enough copies for distribution, as well as the actual time it takes to deliver the copies by messenger or by mail, has often resulted in delays in getting the information out to you as quickly as we would have liked.

We are very pleased to announce that we are now able to send updates and memorandums by *email* or by *facsimile*. We have been working on making the format as easy as possible to download with few delivery problems. We feel that this method of distribution will be faster and more convenient for you.

If you would like to receive your memorandums by email or facsimile, please call Kelly Buziak in our Client Services department at 604-659-8686 or toll-free at 1-800-553-1936. You may also e-mail your request to info@wcts.com with a note stating which department updates you would prefer to receive.



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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