



The Register

THE NEWSLETTER OF WEST COAST TITLE SEARCH LTD.

NUMBER 67 / 07

REGISTRY SERVICES • PROCESS SERVING

SEPTEMBER 2007

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UPDATE

Release of CPL

A certificate of pending litigation (CPL) will not automatically lapse. You must apply to release the CPL to have it removed from the title. How to release the CPL will depend on what has happened with the court action that initiated the proceedings.

The most common form of release is by written request of the party initiating the proceedings or by the solicitor. This **release by letter** is used where the court action has *neither been dismissed nor discontinued* (s.255 *Land Title Act*). Although the letter does not need to follow prescribed statutory wording, certain key points must be included in the letter. **Note:** A Form 17 application must accompany the letter.

By Solicitor Who Commenced Action

The letter from the *solicitor who commenced the action* should be on the firm's letterhead and must include the following key points:

- PID and full legal description
- Court action number
- CPL registration number
- State that the solicitor *was* the solicitor at the time the action was commenced
- State that the solicitor *still is* the solicitor
- State that the action *has neither been dismissed nor discontinued*
- Request cancellation of the CPL

By Different Solicitor at Same Firm

If the solicitor who commenced the action is no longer with the law firm or is unavailable to sign the letter, the **law firm** may prepare the letter, provided the law firm still continues to act for the plaintiff/petitioner. This form of letter is often written in the plural, e.g. "*We are the solicitors*" and must contain all of the key points noted previously.

The release letter must be accompanied by a letter explaining why the original solicitor from the law firm is unavailable to sign the release letter. The explanation may also be incorporated into the actual release letter from the law firm.

By Solicitor Who Did Not Commence Action

Where the solicitor requesting the cancellation of the CPL is the current solicitor of record but is not the solicitor who commenced the action, the Registrar will require a photocopy of the *Notice of Appointment of Change of Solicitor* attached in support of the release letter. The wording in the letter should set out the change of solicitor particulars and must contain all of the key points noted previously.

By Party Who Commenced Action

The release letter may also be filed by the party who initiated the court proceedings rather than the solicitor. In this case, the letter will not be on letterhead but must still contain all of the key points noted previously. *The party's signature must be witnessed by an officer and the officer certification statement must appear on the letter.*

Filing “Subject to” CPL

A certificate of pending litigation (CPL) will prevent the registration of transfers and most charges unless it is first released or unless the instrument is expressly stated to be “subject to” the CPL (s.216(1) *Land Title Act*).

In the case of the statutory conveyancing forms, the “subject to” provision must appear in the operative part of the instrument and refer to the filing number of the CPL:

Form A

- In Item 2 - *Parcel Identifier and Legal Description of Land*, or
- In Item 5 - *Freehold Estate Transferred*

Form B

- In Item 2 - *Parcel Identifier(s) and Legal Description(s) of Land*, or
- In Item 11 - *Prior Encumbrances Permitted by Lender*

Form C

- In Item 2 - *Parcel Identifier(s) and Legal Description(s) of Land*, or
- In Item 3 - *Nature of Interest*

It is not necessary to file “subject to” a CPL in the case of the following charges or interests:

- Priority agreement;
- Assignment of charge *where the original charge was registered before the CPL was registered*;
- Sublease, if the lease from which it was derived was registered before the CPL;
- Judgment, claim of lien, or any other involuntary charge.

If the document is not stated to be “subject to” the CPL, then you must attach a separate *Election and Authorization* to the document. The Election and Authorization may be signed by the person entitled to the registration (i.e., the transferee) or by the transferee’s solicitor.

An example of an Election and Authorization may be found in the Land Title Practice Manual, Volume 1, Part 14, Page 38.

Court UPDATE

Jurisdiction of Chambers Matters

Form 126 - *Notice of Hearing* includes a line to complete regarding the jurisdiction of the matter being spoken to in Chambers. If the matter is not within the jurisdiction of a Master, a reason must be given as to why the matter must be heard by a Judge. This is especially important in Courts where there are not both Masters and Judges sitting in Chambers on all days. *For example*, in **New Westminster** Supreme Court, there are no Masters sitting on Mondays. Unless counsel provides a letter explaining the absolute necessity and urgency of being on the Judges’ list, a matter within the jurisdiction of a Master is not allowed to be set for hearing on a Monday in New Westminster.

On the Form 126, it is **not** sufficient to use the *inherent jurisdiction of the Court* as a reason why the matter must be heard by a Judge rather than a Master. The registry clerk needs to see the Rule stated or the reason clearly set out for the need of a Judge. It is also **not** sufficient to cite as a reason that a *final order is being sought*. Masters can make various final orders including orders under Rule 2, summary judgments under Rule 18 (not 18A), orders granting judgment in default, orders striking pleadings (provided there is no determination of a question of law relating to the issues in the action), uncontested foreclosures, orders under Rule 61 dealing with Administration of Estates, and s.57 declarations under the *Family Relations Act* where there is no dispute.

If you have any questions about the jurisdiction of Chambers matters, or any other Court related question, please contact our *Vancouver* Court department at 604.659.8700 or toll free at 1.800.806.2788 or our *New Westminster* Court department at 604.659.8600 or toll free at 1.800.553.1936.

Civil and Family Chambersittings

Due to Conference dates, and Court Recesses, Judges and Masters will not be available for regular Chambers sittings on **November 14, 15, and 16, 2007**. Only **urgent** applications up to **one hour** in length may be scheduled for civil and criminal matters on these dates.

Trials Held in Different Registries

Effective July 1, 2007, BC Supreme Court Rules dealing with trials to be held in a different registry were changed. Rule 39(5.1), Rule 39(5.2) and Form 36A – *Application for Trial Date* were all repealed.

Consequently, when a trial is to be held at a venue that is not the same as the location of the file, it is no longer necessary to file an Application for Trial Date. The current procedure now is to call the Registry where the trial is to be held to book the trial date. A *Notice of Trial* in Form 35 must then be filed at the home Registry and a *Trial Certificate* in Form 37 must be filed at the Registry where the trial is to be held. These changes were implemented because Trial division is now able to verify the booking on their computer system.

Note: As Rule 39(7) is still in effect, the *place of trial* must be stated on the Notice of Trial and must be indicated as set out on the Statement of Claim, or as set out in the order of the Court.

Family and Divorce Files

The Supreme Court now requires a letter of authorization to release clerk’s notes or terms of order for Family or Divorce files to anyone who is not a party to the action or counsel of record. Please send an originally signed authorization with your request for these notes.

BC Gazette

U P D A T E

Submission Deadlines

The normal deadline for submissions to the BC Gazette is **1:30 pm each Tuesday**. The BC Gazette is published on the following Thursday with a copy available for mail or pick-up on Friday afternoon. However, there are some variations if statutory holidays fall on certain days.

When a sole statutory holiday falls on a Friday, the deadline for the BC Gazette moves to 1:30 pm on Monday of that week. For the week of **December 24th - 28th, 2007**, the deadline for submissions will be Friday, December 21st at 1:30 pm. The BC Gazette will then be printed on Thursday, December 27th.

If you have any general questions about submissions to the BC Gazette or their specific deadlines, please call our Victoria office at 405.6000 or toll free at 1.800.667.7767.

Motor Vehicles

U P D A T E

Search Requests

When requesting a search of a Motor Vehicle, either *certified 'as at' the date of an accident* or just a search of the *current registered owner*, please include a copy of the corresponding police report (if applicable) with the ICBC action.

If there is a discrepancy with the ICBC claim number but a police report has been supplied, ICBC will usually process the request. However, if there is a discrepancy and a police report has not been included with your search request, the request will be cancelled by ICBC. The work will then have to be reordered with the correct information.

MHR

U P D A T E

Change in Registered Location

If the location of a manufactured home has changed, the Manufactured Home Registry must be notified so that the register can be amended. When a manufactured home is moved legally, a *Transport Permit* is obtained. This process automatically changes the location of the manufactured home on the Registry's database. However, if the home has not moved but only the address or legal description has changed (e.g. post office re-designation, lot subdivision, etc), an *Application to Correct the Manufactured Home Register* must be filed prior to any dealings with the manufactured home.

When the application is submitted with paper documents or prior to an online registration, the Registry normally processes this change for free. However, in some circumstances, a correction fee of \$15 may apply, as indicated near the top of the form. When completing the form, only complete the space relevant to the change you are making. *For example*, if you are amending the *location* of the manufactured home, you only need to complete Section E of the form, ensuring that you indicate that "*this home did not move without a permit*". It is West Coast's procedure to ensure the location shown on the register matches the documents. If we find a discrepancy, we will advise you and we can draw up the application on your behalf.

If you would like a copy of the *Application to Correct the Manufactured Home Register*, please contact our Victoria office at 405.6000 or toll free at 1.800.667.7767. The application form is also available on the Manufactured Home Registry website at www.fin.gov.bc.ca/registries/mhrpg/forms/735.pdf.

West Coast

U P D A T E

Introducing Our New Office Administrator

We are pleased to announce that **Cyndy Patterson** will assume the duties of office administrator in our Client Services department effective October 1, 2007. Kelly Buziak has relocated to Victoria and will be following a new career direction there. We all wish her the very best of luck in her new endeavours.

Cyndy has been with West Coast for over **16 years** and has worked in New Westminster as both a Land Title and Court Registry agent. As well as her in-depth knowledge and experience in the industry, she brings with her to this new position a strong commitment to customer service.

If you have any questions about the services West Coast provides, please feel free to contact Cyndy in our Client Services department at 604.659.8610 or toll free at 1.800.553.1936 or via e-mail at cyndy@wcts.com.

Newsletter and Updates by E-Mail

Due to the popularity of our newsletters, registry updates and memorandums, we would like to invite you to "*Help Us Go Green!*"

If you would like to receive our newsletters and updates faster, and at the same time, *help the environment*, please contact our Client Services department at 604.659.8610 or toll free at 1.800.553.1936 or via e-mail at info@wcts.com and ask to be added to our e-mail list.

All of our newsletters and updates are also available on our website www.wcts.com under the *Registry News & Updates* link.

Staff Anniversary

On July 24th, 2007, Marie McDonnell, in our Accounting Department, celebrated her 20th Anniversary with West Coast. On behalf of Wayne Crookes, Owner/President and all the staff, we would like to congratulate Marie for her many years of dedicated service and say "Thank You For a Job Well Done!"



Marie McDonnell and Wayne Crookes, Owner/President

Asked & Answered ~ A Court Question

Question:

When ordering a Divorce Certificate, how do I calculate "the 31st day from the date of this order"?

Answer:

For months with 31 days, it is the same date in the following month. For example, an October 9th order will take effect on November 9th.

For months with 30 days, add 1 day to the date in the following month. For example, a September 10th order will take effect on October 11th.

For February, add 3 days to the date in the following month, except in a leap year, when you add only 2 days. For example, in 2008, which is a leap year, a February 5th order will take effect on March 7th.

"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 604.659.8610 or toll free at 1.800.553.1936. You may also view these on our website at www.wcts.com under the *Registry News & Updates* link or e-mail your request to info@wcts.com.

COURT

- **July 11, 2007** - Reserving All Civil Trial Dates by Telephone
- **June 26, 2007** - Vancouver Trial Scheduling

LAND

- **June 29, 2007** - PTT on Errors in Conveyance

Process Serving

West Coast has been doing process serving since 1969 and is one of British Columbia's leading process serving firms. We can also handle all your process serving needs throughout Canada, the United States and internationally. Our Process Serving team is available for any questions or quotes and can be reached at 604.659.8700 or toll free at 1.800.806.2788 or via e-mail at info@wcts.com.



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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