



Ontario

Ministry of
Consumer and
Commercial
Relations

Property
Rights
Division

Legal
and
Surveys
Standards
Branch

BULLETIN NO. 80013

DATE: APRIL 8, 1980.

TO:
ALL LAND REGISTRARS

THE REGISTRY ACT -
SECTION 65

RULING OUT

As a result of the recent amendments to Section 65 of The Registry Act, Land Registrars are advised of the following procedures when ruling out entries:

1. Mortgages and Instruments under section 26

The entry under the heading of a lot (block, etc.) in the abstract index of a mortgage or an instrument under section 26 together with its related discharge and any other instrument relating exclusively thereto may be deleted (without examination of the original instruments) if it appears from the abstract index that:

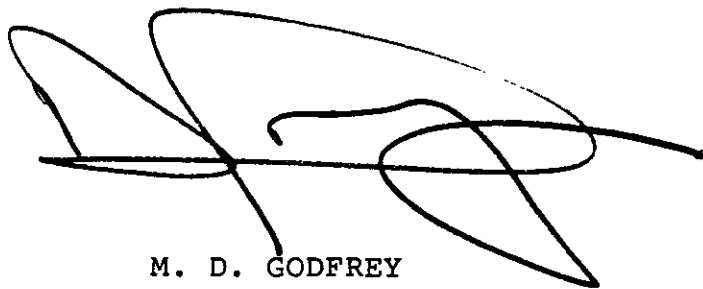
- (a) the instrument purporting to be a valid discharge of that lot (block, etc.) was given by the correct party. (In this regard, the Land Registrar will verify from the abstract index that all necessary assignments have been registered unless the discharging instrument has been issued by a court); and
- (b) the discharge has been registered for 10 years or more; and
- (c) the "Remarks" column does not indicate any deficiency in the discharge. (A notation of deficiency with respect to the discharge may appear in those offices in which the entry clerk has been verifying the contents of the discharge. This practice of verification by the entry clerk need no longer be continued); and
- (d) the discharging instrument discharged the whole lot or that part of it affected by the mortgage or other instrument.

2. Certificates of Lis Pendens, Claims for Mechanics' Lien, Certificates of Action, Notices of Conditional Sales Contracts, Notices of Security Interests and Gas or Oil Leases

An above-mentioned instrument may be deleted in the abstract index together with its related discharge and any other instrument relating exclusively thereto on the same basis as set out in paragraph 1, except that the reference in clause (b) should be 2 years.

3. An instrument purporting to be a valid discharge can exist in a form other than those normally encountered by Land Registrars. For example, instead of the usual discharge of mortgage form, a mortgagee may be discharged by a release and reconveyance (see Bulletin 79053). If the Land Registrar is satisfied that the discharging instrument effectively discharges the charging interest, he may delete both instruments and any other instrument relating exclusively thereto provided the above criteria are followed. Land Registrars are advised that a sale under a power of sale in a mortgage, a certificate of final order of foreclosure and a quit claim from the mortgagor to the mortgagee are not to be considered as instruments purporting to be a valid discharge for the purpose of section 65.

4. Ruling out is to be completed by drawing a line through all instruments to which section 65 applies and by initialling and dating same. The initialling and dating may not be completed through the use of a rubber stamp.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

M. D. GODFREY
SENIOR SOLICITOR

MDG:ls.