



Ministry of Consumer
and Business Services
Registration Division
Title and Survey Services Office

BULLETIN NO. 2004-04

Land Titles Act

DATE: March 16, 2004

TO: All Land Registrars

LTCQ – Deletion of
Thumbnail Interests and
Executions

This Bulletin revokes Bulletin 2004-1 which contained an error in the last paragraph of the second page where the “judgement creditor” was referred to as the “judgement debtor”.

BACKGROUND

During the automation process, Registry records are administratively converted to Land Titles under the authority of Section 32 of the *Land Titles Act*. When the Registry records are searched during the automation process, they are parcelized on the basis of ownership. Most of the Registry records searched are converted to Land Titles and the land registration system makes a statement of ownership. All active interests that apply to that record are brought forward to the automated parcel register. A First Application is not done during this administrative conversion process. There is no survey of the property; no notice is served on interested parties and some issues that can be dealt with in a First Application such as adverse possession, cannot be dealt with. As a result, the land registration system can bring the land into land titles however, additional qualifiers to those listed in section 44 are added to the parcel. Conversely, because of the searches performed during the conversion process, certain section 44(1) qualifiers are removed from the parcel. The net result is that the land registration system is able to offer a title with additional guarantees and fewer qualifications to ownership than “Absolute”, notwithstanding the requirement in the Act that it be referred to as “Qualified”. A search for writs of execution on the current registered owner(s) and previous registered owners in a non-arms length transaction is conducted at the time of conversion of property to Land Titles.

The Land Titles qualified title (LTCQ) issued may reflect interests that the parties have determined in the Registry system do not apply. Because of the differences between the Registry and Land Titles systems, and because no notice is being served in the administrative conversion, these interests may be brought forward to the LTCQ thumbnail description as “Subject to interest as in #”. Any outstanding writs will be flagged in the property description as “Subject to execution #, if enforceable”.

These “subject to” notices, except writs, generally deal with interests that were not fully addressed in the registered documents. If the outstanding interest is regarding a description, debts, spousal or beneficiaries it will be identified as such. All other outstanding interests will be shown as “subject to interest as in #”.

DELETING “SUBJECT TO INTEREST”

Deleting the “subject to interest” will, for the most part, require the client to prepare and register a document. In the paper system an Application to Amend the Register under Section 75 of the *Land Titles Act* is required. In electronic registration an Application (General) document type is

required. In both the paper and electronic environments, the application must be made by an interested party. If the situation warrants, a solicitor's statement in electronic registration and a solicitor's statement or affidavit in the paper system may be used to provide the evidence required to delete the interest. In both the paper and electronic systems, an application to the Land Registrar to amend the title will be required, incorporating the wording and required information in Form 15, Ontario Regulation 690 under the *Land Titles Act*.

Whether a registration fee is applicable will depend on the particular situation. When dealing with situations that have not been dealt with in Registry prior to conversion, the normal land titles procedures apply, an application must be registered and the normal registration fee applied. If an interest has been entered on the LTCQ parcel where evidence has been deposited in Registry and the deposit not brought forward, an application to amend the parcel is required, however, the registration fee will be waived. There may be some limited situations depending on the circumstances where no further explanation is required on title. If this is the case, the Land Registrar may amend the records without application or fee.

The type of evidence that may be required to be included in the application will depend on the particular interest shown on title and may include evidence based on a solicitor's legal opinion, a consent of a third party, case law or time limits under the *Limitations Act*. The foregoing list is not exhaustive and, as always, registrants should work with the Land Registrar to determine what type of evidence is required and the applicability of a registration fee.

DELETING "SUBJECT TO EXECUTION #, IF APPLICABLE"

As with deleting "subject to interest" above, deleting executions requires the client to prepare and register an application in most cases. However, since there was no opportunity to clear the writs before conversion, the Land Registrar should waive the registration fee. Where the property description has been made subject to a writ against a previous registered owner on a non-arms length transfer and the writ was filed after the party had sold their interest, the Land Registrar may delete the writ without application.

If the writ is a lien under either the *Legal Aid Act* or the *Bail Act* that does not apply to the land in question, the Land Registrar may delete the writ from the property description without application as these writs are only enforceable against the property listed in them.

Paper Registrations

In the paper system an Application to Amend the Register under Section 75 of the *Land Titles Act* is required. The application must be made by an interested party. The evidence required to delete the writ can be the statement or affidavit of the registered owner or former registered owner, as the case may be, stating that he/she is not the same person as the judgement debtor named in the writ provided the amount of the judgement is less than \$50,000.

Where the amount of the writ is \$50,000 or more, written acknowledgement by the judgement creditor or his/her solicitor that the debtor is not one and the same as the registered owner/former registered owner is acceptable. Additionally, regardless of the amount of the writ, the solicitor for the registered owner/former registered owner may make an unequivocal statement or affidavit that their client is not one and the same as the person in the writ. See Bulletin 98003 Writs of Execution for further details.

Electronic Registration

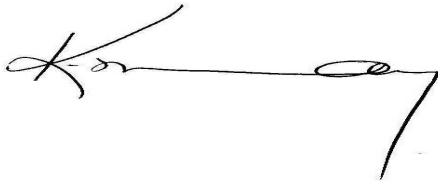
To delete writs in the electronic system the registrant should select the Application Delete Execution document type and choose the applicable statement. The application must be made by an interested party. If the application is being made by the current registered owner and the registrant wishes to use statement 808 which pertains to a previous registered owner, the statement should be adapted to fit the situation. For example, add into the statement the following bold and italicised words;

808 ***John Doe, the current registered owner and not*** a previous registered owner
 is not one and the same as the party named in the writ.

Writ Information

Situations may occur on LTCQ properties where a notation has been made in the thumbnail that the property is subject to a writ which is identified by number only. If the writ has been deleted from the Ministry of the Attorney General's (MAG) execution database and a search by writ number is done, the client will receive the following message: "WRIT DOES NOT EXIST ON FILE" or if a client is searching in Teraview, "WRIT NOT FOUND". In this situation the applicant cannot provide evidence stating that the writ has expired and has not been renewed, or that the parties are not one and the same person as the party named in the writ. Land Registrars may accept an affidavit or signed statement or a statement in the electronic system by a solicitor or registrant stating that they have conducted a search of the MAG database and received one of the above messages

As always, when dealing with any interest that is shown in the thumbnail description registrants should consult with Registry Office staff to determine the best course of action to deal with the particular situation.

A handwritten signature in black ink, appearing to read 'K. Murray', with a long horizontal stroke extending to the right and a vertical stroke ending in a hook at the bottom right.

Katherine M. Murray
Director of Titles