



Ontario

Ministry of
Consumer and
Commercial
Relations

Registration
Division

Real
Property
Registration
Branch

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TO All Land Registrars

Environmental Warnings/
Restrictions

Registration Against Title

Environmental warnings, even if drafted in the form of a restriction, are not title-related and are not acceptable for registration on title as separate documents. An environmental warning or restriction would be a notification of or an obligation to notify a potential purchaser of some environmental concern such as: noise levels, water quality, sewage disposal, impending construction, maliferous odours, pollutants (chemicals, radiation, radon gas, floodplains, wetlands, etc.).

If environmental warnings/restrictions are included in a document otherwise acceptable for registration, Land Registrars should refuse to register the document as containing non title-related material. There are four exceptions to this general rule:

- a) If a transfer/deed contains a warning/ restriction as required by an agreement under s.50(6), 52(2) or 54(4) of the Planning Act, 1983 registered on title prior to January 1, 1988, the transfer/deed should be accepted for registration;
- b) The provisions of Bulletin No. 80023 continue to apply. Certificates of approval respecting private sewage disposal systems and certificates of approval and provisional certificates of approval respecting waste management systems and waste disposal sites under the Environmental Protection Act, or notices thereof under the Land Titles Act, can be registered and any conditions or restrictions affecting the use of land and reasons attached must not be removed;

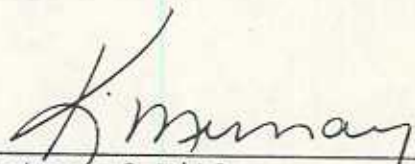
(Note: Bill 220, the Environmental Protection Statute Law Amendment Act, 1990, added section 150 to the Environmental Protection Act and section 64a to the Ontario Water Resources Act [copies attached] to provide for registration of certificates of prohibition and certificates of withdrawal of prohibition against title. These certificates will be prescribed by the Ministry of the Environment and a bulletin will subsequently be issued to land registrars.)

- c) Agreements of purchase and sale or cautions based thereon should be accepted if they include such warnings/restrictions; and
- d) Environmental warnings/restrictions may be included in agreements imposed as a condition to the approval of a plan of subdivision under subsection 50(6) of the Planning Act, 1983 and in agreements imposed when dispensing with the requirement of a plan of subdivision under subsections 52(2) or 54(4) of the Planning Act, 1983. This is permissible because there is statutory authority for the inclusion in such an agreement of "such matters as the Minister may consider necessary", which will be construed as permitting environmental warnings/restrictions. The agreement cannot provide that subsequent deeds/transfers must include warnings/restrictions concerning environmental or other matters (eg. lack of schools, poor roads, etc.).

Attached to this Bulletin is a chart indicating in greater detail when environmental warnings/restrictions are and are not acceptable. This Bulletin represents the Branch's long-standing policy on these matters.



Director of Land Registration
Carol D. Kirsh



Director of Titles
Katherine M. Murray

REGISTRATION OF ENVIRONMENTAL WARNINGS/
RESTRICTIONS AGAINST TITLE

Acceptable

Environmental warnings/restrictions may be included in:

1. agreements under subsections 50(6), 52(2) and 54(4) of the Planning Act, 1983;
2. agreements of purchase and sale or cautions based thereon;
3. certificates of approval and provisional certificates of approval respecting waste management systems and waste disposal sites and certificates of approval respecting private sewage disposal systems under the Environmental Protection Act and notices thereof under the Land Titles Act (see Bulletin 80023); and
4. transfers/deeds, only if this is required pursuant to an agreement under subsection 50(6), 52(2) or 54(4) of the Planning Act, 1983 registered prior to January 1, 1988.

Not Acceptable

Environmental warnings/restrictions may not be:

1. registered as separate documents on title;
2. included in condominium declarations;
3. included in agreements under the following sections of the Planning Act, 1983: s.28(10) re: Community Improvement Plan; s.36(4) re: Development Agreement for Height and Density Increases; s.40(10) re: Site Plan Control Agreement; and
4. included in a certificate re: severance consent under s. 52(21) of the Planning Act, 1983. (Please note that inclusion of any conditions in such a consent is not acceptable.)