



Ontario

Ministry of
Consumer and
Commercial
Relations

Property
Rights
Division

BULLETIN NO. 75066

DATE: July 10, 1975

TO: ALL LAND REGISTRARS
ALL LEGAL SURVEY
EXAMINERS

REG. 780, R.R.O. 1970,
THE REGISTRY ACT

SUBDIVISION PLANS - EASEMENTS

Section 33 of Reg. 780, R.R.O. 1970, provides that a plan shall not contain information describing the purposes for which any portion of the land on the plan is intended to be used, subject to section 34, which requires highways, roads, streets, etc. to be so designated. Section 35 requires an easement or other right-of-way existing at the time of the survey to be shown on the plan.

The combination of these three sections and their equivalents under The Land Titles Act, (Reg. 552, R.R.O. 1970, ss. 29, 30 and 31), have been interpreted as meaning that an easement not in existence at the time of registration or deposit of a plan should not be permitted to be shown on the plan.

We are attempting to achieve uniformity of procedures under the two Acts, but there are technical differences in the statutes which relate to the time when a legal interest, including an interest in a right-of-way, comes into existence. Under The Land Titles Act, a legal right comes into existence upon registration of the relevant document. However, under The Registry Act, the legal existence of a right comes into being at the time of delivery of the executed deed or other document.

With particular reference to plans of subdivision and municipal easements, it would seem to be desirable, to protect the municipality's easement interest, to have such easements shown on subdivision plans. This would result in purchasers of the lots, who inspect the plans, having notice of the existence of the easements, so that they will not encroach upon them during construction.

Although we are not changing our policy to allow easements that are not legally in existence to be shown on plans, we are revising it to this extent.

Where an easement is in existence in favour of a municipal corporation or municipally operated public utility under an unregistered document, the easement may be shown on the plan in the same manner that it would be shown if the document had been registered, but a conspicuous notation must be added to the plan to identify the illustrated easement as being one created by an unregistered document and naming the municipality or agency in whose favour it was granted.

The notation could be phrased, for example:
"The easements shown represent executed agreements in favour of and delivered to The Corporation of the Town of (and/or The Hydro-Electric Commission of the Town of) for registration subsequent to the registration of this plan".



Richard E. Priddle
Director of Land Registration

ALB:pc