

Ontario

Ministry of
Consumer and
Commercial
Relations

Registration
Division

Real
Property
Registration
Branch

BULLETIN NO 95001

DATE: March 13, 1995

TO: All Land Registrars

Land Transfer Tax Act
- Bill 161

Leases

On August 5th, 1994 instructions were issued by this Office requiring all land transactions involving leases and associated documents to include a land transfer tax affidavit. These instructions resulted from the passage of Bill 161, which received royal assent on June 23, 1994. Previously the practice had been to require land transfer tax affidavits for leases, including options if any, with an unexpired term of more than 50 years.

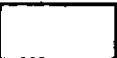
As a result of Bill 161, an Affidavit of Residence and of Value of Consideration, as in Form 1 of O. Reg. 157/91 under the Land Transfer Tax Act, will be required with all leases, assignment of leases, subleases, options to lease, and other transfers of interest in land, as well as notices of all such interests. In addition the Ministry of Finance, Land Transfer Tax Section, has published a notice stating that one of the following statements should be completed in paragraph 7 of Form 1:

- i) the term of the lease, including any renewals, extensions or options contained in the lease arrangement and any other document, can exceed fifty years; or
- ii) the term of the lease, including any renewals, extensions or options contained in the lease arrangement and any other document, cannot exceed fifty years.

Where the first statement given above is used in paragraph 7 of the land transfer tax affidavit, land transfer tax, if any, will be collected before the registration of the document.

Land registry office staff are to accept the affidavit and the statement made therein, at its face value. When the land registrar is of the opinion that an affidavit needs to be investigated, he/she is to send a copy of the document for an audit by the Land Transfer Tax Section, after the registration of the document.

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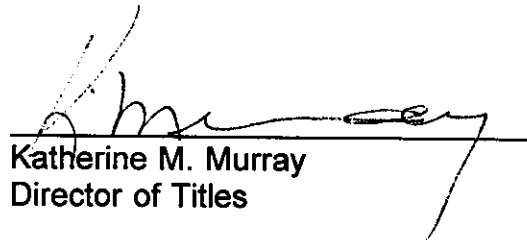


The only exceptions to the above are provided in an interpretation by the Ministry of Finance. Recently the Ministry of Finance advised that Crown Grants and Crown Leases were exempt from the requirements of the Land Transfer Tax Act, by virtue of the absence of provisions within the Act to bind to the Crown. Accordingly, these types of documents do not require land transfer tax affidavits.

If a properly completed and executed land transfer tax affidavit is not provided by the registrant in a document where it is required, the document is to be refused registration.



Ian Veitch
Director of Land Registration



Katherine M. Murray
Director of Titles