



Ministry of Consumer
and Commercial
Relations

Registration Division

Real Property
Registration Branch

BULLETIN NO. 97003

DATE: December 22, 1997

TO: All Land Registrars

*Land Titles Act
Registry Act*

Reference Plans; Exemptions,
Undertakings, Withdrawal

Background:

The need to improve the quality of Registry Act descriptions has been identified as a basic component of improving land registration records. This has been achieved by screening vague and complex descriptions and requiring reference plans where unsatisfactory descriptions exist. It has also created consistency between the Land Titles Act and the Registry Act on severances by requiring reference plan surveys. Sufficient flexibility, by way of exemptions and undertakings, has been provided to accommodate rare and unusual circumstances.

Remainder Descriptions:

Registrants should be encouraged, where practical, to submit plans showing PART(s) for remainder lands, not just the lands proposed to be transacted. This should not be construed as requiring the client to incur extra survey costs unless the client authorized such work to be done. However, in many cases the survey work has already been done and the additional PART(S) can be added with minimal effort.

Withdrawal of Reference Plans:

There is no statutory provision, under either the Land Titles Act or the Registry Act for the withdrawal of a reference plan after it has been deposited, and therefore it cannot be withdrawn.

However, where lands have been resurveyed and the surveyed lands encompass the lands shown on the older reference plans, the older reference plans need not be reentered in the new Parcel or PIN if the lands being transferred are described by reference to the newer plan.

Statutory Authority to require Reference Plans and the Statutory Authority given to Land Registrar's for Exemption Orders:

Both Section 150 of the Land Titles Act and Section 80 of the Registry Act contain similar wording requiring the lands to be described in accordance with a reference plan description. The exceptions, although not identically worded in both Acts, are as follows:

- (a) the land being conveyed or charged is the whole of the land remaining to the owner;

- (b) the land is the whole of a lot, block, street, lane, reserve or common according to a registered plan of subdivision; and
- (c) the land is the whole of a "PART" according to a previously recorded reference plan.

The Land Registrar may also request a reference plan where the description is vague and complex, in accordance with Section 140 of the Land Titles Act or Section 81 of the Registry Act. Land Registrars should exercise their discretion in requesting reference plans in this circumstance.

Planning Act Consents:

Reference plans are required for describing severances in the land registration system. This is a longstanding requirement, however, if issues are encountered then the Land Registrar should contact the local planning authority to bring this requirement to their attention.

In those rare situations where an exemption from providing a reference plan is contemplated by a party, after initial consultation with a Planning Authority, written approval by the Land Registrar (see "Application for Exemption from Reference Plan" attached as SCHEDULE 1) should precede any formal application for a severance. This should eliminate unforeseen survey costs and subsequent delays to the applicant for a severance. The Regional Surveyor in your area should be consulted.

When the document which creates the severance (transfer, charge etc.) is presented for registration, it should be supported by the Land Registrars' Order and application for the Order (sample attached as SCHEDULE 1).

Undertakings:

The Land Registrar, having regard to the circumstances, may accept a written undertaking (see sample below) from the solicitor for either of the parties, or from an Ontario Land Surveyor for either of the parties, when time is of the essence in registering a document with a substandard description. The undertaking should be attached to the document and noted in the "Remarks" column in the abstract index or in the parcel register.

When the reference plan is deposited, the entry of the plan in the abstract index or parcel register should refer to the previously registered instrument.

UNDERTAKING
(Suggested Form)

To: The Land Registrar.

In consideration of your allowing the registration of ___(identify instrument, referring briefly to the land and parties)___ without a reference plan being deposited in advance, I HEREBY

UNDERTAKE (on behalf of my client), that a plan of survey of the land described in the above noted instrument will be deposited as a Reference Plan before (date - maximum, one year)

Dated at _____

(Signature)
(Name in Print)

Solicitor/Surveyor for:

Compliance:

Each Land Registrar is required to keep a record of the undertakings in their office. Should an undertaking become overdue, the Land Registrar is to inform the solicitor/surveyor concerned, at the end of the first overdue month. If no extension is granted, the Land Registrar should inform the Examiner of Surveys at the end of the third overdue month.

Note:

All descriptions, in substitution of a reference plan description, require compliance with PART XII Descriptions of Land, of Ontario Regulation 43/96.

SCHEDULE 1

Application for Exemption from a Reference Plan on Severance.

To: The Land Registrar

I HEREBY APPLY as owner (as a solicitor on behalf of my client), to request that you issue an ORDER exempting (owners) from the requirement that a reference plan be deposited with respect to (describe geographic location) for the following reasons: _____ I propose that the attached description be used to describe the proposed severance _____

Dated at _____

(Signature)
(Name in Print)

ORDER

I hereby ORDER, pursuant to
The Land Titles Act, Section 150
The Registry Act, Section 80

and having regard to the circumstances, that the instrument on which this ORDER is endorsed be exempted from the requirement that a reference plan be deposited.

(date)

Land Registrar

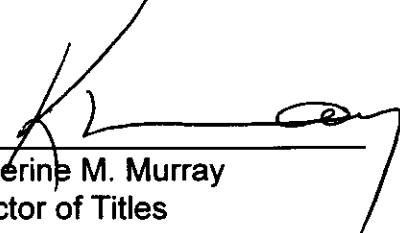
Note:

- (1) The application, ORDER and proposed description must be attached to the instrument being exempted.
- (2) The description in substitution for a reference plan will need to comply with, PART XII Descriptions of Land, of Ontario Regulation 43/96
- (3) Descriptions with an ORDER attached cannot be rejected on subsequent transactions if the whole of the instrument is being dealt with.

This bulletin replaces bulletins 73022, 77012, 80024, 82004.



Ian Veitch
Director of Land Registration



Katherine M. Murray
Director of Titles