



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

BULLETIN NO. 2001-2

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TO: All Land Registrars

*Land Titles Act
Registry Act*

*Social Housing Reform
Act, 2000*

SOCIAL HOUSING REFORM ACT, 2000

I. BACKGROUND

This bulletin is intended to summarize the provisions of the *Social Housing Reform Act, 2000* (the "Act") that relate to land registration and to detail the registration requirements for documents. The full provisions of the Act have not been summarized and registrars should refer to the Act for details of the sections and other relevant requirements.

Effective January 1, 2001, certain assets of Ontario Housing Corporation, the Crown in Right of the Minister of Municipal Affairs and Housing, the Crown in Right of Ontario or a local housing authority were transferred to various other entities. Pursuant to section 34 of the Act, the transfers of assets were effected through orders in council ("transfer orders"), which are not required to be registered on title to the lands transferred in order to effect such transfers. The Act provides for notice of the transfer to be given in written statements contained in subsequent registered documents.

II. SECTION 43 –TRANSFER TO TRANSFEREES

This section of the Act deals with a transfer to the prescribed transferees as set out in section 34 of the Act. Under section 43 all transferees are required to take the necessary actions to register a Transfer under either the *Registry Act* or *Land Titles Act*, and includes prescribed statements to be made by the transferee as set out below. Subsection 43(9) of the Act also provides that the transferor may make the statements on behalf of the transferee. Either the transferor or the transferee can sign the document although the transferor will not normally do so unless acting pursuant to subsection 43(9). As a practical matter, the Transferor will be undertaking the registration of all such transfers of title pursuant to subsection 43(9) of the Act. Execution of the Form 1 Transfer by the Transferor is not required pursuant to subsection 43(4) of the Act.

Transfers to Exempt Transferees

Each transferee is entitled, prior to the registration of a transfer, to transfer, to grant or dispose, mortgage or otherwise encumber an interest in the real property transferred to it by transfer order, to or in favour those transferee described in subsection 60(2) of the Act. If the transferee has not registered a transfer with the prescribed statements then the subsequent exempt transferee is required to take the appropriate steps to register a transfer on title with the requisite statements. (See section 61 of the Act)

III. LAND TRANSFER TAX

It is not necessary for a land transfer tax affidavit to be included or for the land transfer tax to be collected when the transfer:

- i) is evidencing the transfer order,
- ii) is to a person listed in the “Exempt Transferees” list, as provided from time to time, or
- iii) is a transfer as may be prescribed.

For transfers described in paragraphs (ii) and (iii) the document should include a statement to the effect that the transfer is exempt from land transfer tax pursuant to subsection 60(1) of the Act.

A subsequent conveyance to any other third party will require a land transfer tax affidavit and payment of land transfer tax as appropriate.

V. STATEMENTS BY TRANSFEREES OR EXEMPT TRANSFEREES

To properly comply with the Act, the following statements as appropriate are required to be made. Either the transferee or exempt transferee, or the transferor pursuant to subsection 43(9), on behalf of the transferee can make the statements.

1. [**Name of transferee, transferor or exempt transferee**] is a person entitled to make the statements herein under the *Social Housing Reform Act, 2000*.
2. All of the interest of the [**name of transferor**] described in this transfer in respect of the real property was transferred to [**name of transferee**] effective [**effective date of transfer**] by a transfer order dated [**date of the transfer order**] made by the Lieutenant Governor in Council under the *Social Housing Reform Act, 2000*;
3. The interest of the transferor described in this transfer cannot be transferred or mortgaged or otherwise encumbered, developed or redeveloped and an interest in such real property cannot be granted or disposed of by any person without the prior written consent of the Minister of Municipal Affairs and Housing.
4. This document meets the requirements of the *Social Housing Reform Act, 2000*.

Exceptions to Restrictions

Subsection 50(2) of the Act provides that despite the restrictions set out in statement 3 above, a transferee or an exempt transferee may do the following without the consent of the Minister of Municipal Affairs and Housing:

- a) lease an individual unit in a housing project located on the real property transferred for a term not exceeding one year;
- b) lease a part of the real property transferred that is not residential, if the transfer of the real property by the transfer order has been registered as required by section 43 of the Act;
- c) transfer or mortgage or otherwise encumber the real property transferred or grant or dispose of an interest in the real property transferred to or in favour of:
 - i) a related service manager,
 - ii) a related municipality,
 - iii) a non-profit corporation controlled by the related service manager or a related municipality, but only if an object of the non-profit corporation is the provision of housing, or
 - iv) a non-profit housing corporation incorporated under section 13 of the *Housing*

- Development Act* in which the related service manager or a related municipality owns a majority of the common shares;
- d) transfer or mortgage or otherwise encumber the real property transferred, develop or redevelop the real property or grant or dispose of an interest in the real property if,
 - i) the transfer of the real property by the transfer order has been registered as required by section 43 of the Act; and
 - ii) the transaction complies with such criteria as may be prescribed.

In these circumstances, one of the following statements must be made in the document evidencing or effecting the transaction:

- a) [**Name of transferee or exempt transferee**] is a person entitled to make the statements herein under the *Social Housing Reform Act, 2000*.
- b) The lease of the real property described herein is an individual unit in a housing project located on the real property described herein for a term not exceeding one year.
- c) The lease of the real property herein is a part of the real property described herein that is not residential, and the transfer of the real property by the transfer order has been registered as required by section 43 of the Act.
- d) The (describe interest being dealt with e.g. transfer, mortgage, etc.) of the real property described herein is a (transfer, mortgage, etc.) of an interest in the real property to or in favour of,
 - i) a related service manager,
 - ii) a related municipality,
 - iii) a non-profit corporation controlled by the related service manager or a related municipality, but only if an object of the non-profit corporation is the provision of housing, or
 - iv) a non-profit housing corporation incorporated under section 13 of the Housing Development Act in which the related service manager or a related municipality owns a majority of the common shares.
- e) The (describe interest being dealt with e.g. transfer, mortgage, develop or redevelop etc.) of the real property described herein is a (transfer, mortgage, etc.) of an interest in the real property and the transfer order has been registered as required by section 43 of the Act and the transaction complies with the prescribed criteria.

VI. STATEMENTS BY HOUSING PROVIDERS

The Act, also deals with non-profit housing providers who are required pursuant to sections 95 and 96 of the Act to register a document against land setting out certain restrictions on the housing provider's ability to dispose of or mortgage the applicable housing project that they are administering without the consent of the Minister of Municipal Affairs and Housing and the relevant service manager. The restrictions are set out below.

1. [**Name of housing provider**] is the housing provider required to make the statements herein pursuant to the *Social Housing Reform Act, 2000*.
2. [**Name of housing provider**] shall not, without the prior written consent of the [**name of service manager**] and the Minister of Municipal Affairs and Housing or any successor, transfer, lease or otherwise dispose of or offer, list, advertise or hold out for transfer, lease or other disposal, the real property described herein or any housing project or any part of it

located thereon, including any chattels in it.

3. [**Name of housing provider**] shall not mortgage, replace an existing mortgage or otherwise encumber the real property described in Box 6 or any housing project or any part of it located thereon, or extend the term of or otherwise amend any existing or approved mortgage or other encumbrances of the real property described herein or any housing project or any part of it located thereon, unless,
 - i) it does so in compliance with such rules as may be prescribed by regulation under the *Social Housing Reform Act, 2000*, as evidenced by a statement by [**name of service manager**] in a registrable document evidencing or effecting such transaction; or
 - ii) the Minister of Municipal Affairs and Housing has given his or her prior written consent, as evidenced by a statement by [**name of service manager**] in a registrable document evidencing or effecting such transaction.

VII. PLANNING ACT

Subsection 43(6) of the Act provides that if a transfer required by subsection (1) is registered, it is deemed, for the purposes of the *Planning Act*, to be a transfer/deed, containing the statements described in subsections 50(22)(a), (b) and (c) of the *Planning Act*.

VIII. REGISTRATION REQUIREMENTS

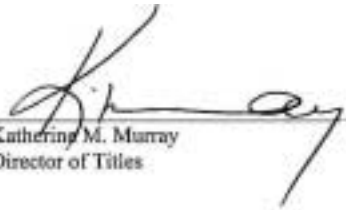
- Land Registry Office staff will not review or verify the statements that are included in the documents presented for registration. Since a statement is made by the transferee that the document meets the requirement of the *Social Housing Reform Act, 2000*, documents will be accepted at face value as it will be assumed that all statements meet the requirements of the legislation.
- Since there are exceptions to the requirements for obtaining consent from the Ministry of Municipal Affairs and Housing, Land Registry Office staff will not monitor the restrictions that are contained in the statements. When a subsequent registration occurs, the document must contain a statement that the transfer or other document, is properly authorized and the appropriate consents from the Ministry of Municipal Affairs and Housing have been obtained.
- A land transfer tax affidavit is not required when the transfer is evidencing a transfer by transfer order, is to a person described in subsection 60(2) of the Act, or is a transfer as may be prescribed. In the latter two situations, a statement to the effect that the transfer is exempt from land transfer tax pursuant to subsection 60(1) of the Act must be made.
- The normal procedure for searching executions under the *Land Titles Act* is to be followed as required. If the transfer is from a subsequent transferee, executions must be searched against the registered owner and any intervening ownership interest.
- The restrictions referred to in Paragraph V. are not to be given a separate registration number and no additional fee is to be charged. The restrictions are to be abstracted as set out below.
- The restrictions by Housing Providers in paragraph VI will be registered separately under section 118 of the *Land Titles Act* and the normal procedures will be followed.

IX. ABSTRACTING REQUIREMENTS

The legislation requires a statement be made in the transfer restricting dealings with the property without the consent of the Minister of Municipal Affairs and Housing. Where such a statement is included in the document, the following remark should be abstracted:

“No transfer, charge, encumbrance or dealing without the consent of the Minister of Municipal Affairs and Housing.”

Compliance with the requirement to include this restriction in the document will not be monitored by staff.



Katherine M. Murray
Director of Titles