

## FREQUENTLY ASKED QUESTIONS

### OFFICE INFORMATION

#### 1. Where is the Land Titles Office located? Are there any offices outside of Winnipeg?

There are six Land Titles Offices located in the province of Manitoba. There are offices in Winnipeg, Brandon, Morden, Portage, Neepawa, and Dauphin. The addresses and phone number of the offices are as follows:

Winnipeg Land Titles Office  
276 Portage Avenue  
Winnipeg, Manitoba  
R3C 0B6

Phone: (204) 945-2042  
Fax: (204) 948-2140

Brandon Land Titles Office  
705 Princess Avenue  
Brandon, Manitoba  
R7A 0P4

Phone: (204) 726-6279  
Fax: (204) 726-6553

Morden Land Titles Office  
351 Stephen Street  
Morden, Manitoba  
R6M 1V1

Phone: (204) 822-2920  
Fax: (204) 822-2928

Portage Land Titles Office  
25 Tupper Street North  
Portage la Prairie, Manitoba  
R1N 3K1

Phone: (204) 239-3306  
Fax: (204) 239-3615

Neepawa Land Titles Office  
329 Hamilton Street  
Neepawa, Manitoba  
R0J 1H0

Phone: (204) 476-7040  
Fax: (204) 476-7049

Dauphin Land Titles Office  
308 Main Street South  
Dauphin, Manitoba  
R7N 1K7

Phone: (204) 622-2084  
Fax: (204) 622-2454

#### 2. If I am dealing with a piece of property outside of Winnipeg, which Land Titles Office should I deal with?

Each Land Titles Office in the province looks after a different part of the province. You must register your documents in the office that has the jurisdiction for the area the lands are in. You can call any Land Titles Office to find out which office has jurisdiction for a particular area.

### **3. When is the Land Titles Office open?**

All Land Titles Offices are required to be open from 8:30 a.m. until 4:30 p.m. Monday through Friday, with the exception of statutory holidays. This said, some of the offices are open earlier for clients' convenience. The actual office hours are:

Winnipeg 8:00 a.m. - 4:30 p.m.

Brandon 8:30 a.m. - 4:30 p.m.

Morden 8:30 a.m. - 4:30 p.m.

Portage 8:30 a.m. - 4:30 p.m.

Neepawa 8:30 a.m. - 4:30 p.m.

Dauphin 8:30 a.m. - 4:30 p.m.

Despite the office hours set out above, the law provides that documents can only be registered in the Land Titles Office from 9:00 a.m. until 3:00 p.m.

## **GENERAL INQUIRIES**

### **4. Do I need to have a lawyer in order to register documents at land titles?**

No. You are never required to hire a lawyer to register documents at land titles. However, it is often a very wise decision. Registration of documents causes land titles records to be changed and this can significantly change your legal position and rights.

### **5. Can the staff at the Land Titles Office help me complete my forms?**

No. Land titles staff may not assist or advise you regarding forms that cause a change in your legal rights and interests in land. In some instances a Land Titles Office may assist in completing documents where we are merely recognizing an administrative change. These requests only cause land titles records to be updated to acknowledge a change in legal ownership that has occurred automatically by operation of law. For instance when a joint tenant has passed away, land titles will assist in the drafting of the request for survivorship.

### **6. I have dropped some documents off for registration at land titles. How long will it take to process these documents?**

The target for processing documents in the Land Titles Office is five business days. In the busier summer months we may take slightly longer, and in the winter months documents may get processed slightly faster. The targets for the surveys department (registrations accompanied by plans) is seven days.

### **7. Can I register my documents electronically or by fax?**

The land titles system is not capable of accepting electronic registration or registrations by way of fax, although some supporting evidence may be presented in this fashion.

## **8. Can I mail documents into the office?**

Documents may be mailed to a Land Titles Office for registration. In addition to the documents you must include a cheque made payable to the Minister of Finance for the appropriate fees, and a registration details application form (an R.D.A.). Private individuals or businesses who do not deal with land titles on a regular basis may submit documents without an R.D.A. form on a one time basis, however all future dealings must be accompanied by the R.D.A. form. A cheque is not required if you have an account with the Land Titles Office.

To ensure that your documents are processed quickly, please ensure that you are mailing the documents to the correct Land Titles Office.

## **9. What is an R.D.A. form, and how do I complete it?**

R.D.A. stands for registration details application. The R.D.A. form is a form that the clients of land titles use to tell land titles which documents they want registered, and in what order. The client also uses this form to tell land titles the address to which they wish to have completed documents mailed. The R.D.A. is used by land titles for accounting purposes, to communicate to clients the registration numbers assigned their documents and in case the documents filed are not suitable for registration, the reasons for rejection are written on the R.D.A. form.

When completing an R.D.A. please make sure that you insert your name, address and phone number, firm number if you have one, the type of documents you are registering, and the registered instruments or titles that these documents affect. For example if you are discharging mortgage 123456 from title 1223344 you would complete the R.D.A. by adding the word "discharge" under the heading "document", you would insert the number "1223344" under the heading "affects title no." And insert the number "123456" under the heading "affects instrument no."

*The Real Property Act* states that all documents registered in land titles must be accompanied by an R.D.A.

**10. I have mailed in my registration to land titles. How will I know when it has been processed and completed. What will land titles mail back to me following registration?**

When land titles receives a registration through the mail, from a client in person, or through any other means, we assign registration numbers to the documents. Once we have done this we record these numbers on the R.D.A. form. The R.D.A. form consists of two sheets, a white sheet and a yellow sheet. For clients dealing with the Winnipeg Land Titles Office, once the registration numbers have been assigned the sheets are separated and the yellow copy is immediately returned to the client. When you receive the yellow sheet you know we have received the documents, but they have not been completely processed. Once the documents have been fully processed our system automatically generates a notice called the notice of completion and this is mailed to the client. When you receive this notice you will know the registration process is complete.

The rural Land Titles Offices retain the yellow copy of the R.D.A. until the registration procedure is complete, returning it to the client at the same time as the notice of completion is sent.

Please be advised that if there is a problem with the documents and they are not suitable for registration they will be returned to you with reasons written on the white copy of the R.D.A. If you have received your documents back then they have not been successfully registered.

## **FORMS**

**11. Where can I get land titles forms?**

Land titles forms can be purchased in bulk from Statutory Publications. They are located at 200 Vaughan Street, Winnipeg, Manitoba, R3C 1T5. Statutory Publications can be contacted at (204) 945-3101.

If you only require one or two forms they can be picked up at any of the Land Titles Offices in the province.

If you are unable to attend at the Land Titles Office in person you can phone one of the offices and we will either mail or e-mail the forms to you.

Main land titles forms in either MS Word or PDF Format can also be downloaded from the Property Registry Internet site. The address of that site is:

<http://www.gov.mb.ca/tpr/forms.html>

Please note that these forms are all two-sided documents and must be submitted to Land Titles on one piece of two-sided legal length paper.

## **12. What is a request/transmission?**

A request/transmission is a land titles form that can be used by clients to have new titles issue in instances where there has not been a transfer of the lands in question. The form can be used to reissue an existing title to the same legal owners. Examples include:

- Requests to change name by virtue of marriage, divorce, legal change of name, or to correct a typographical error in the spelling of a name
- Requests to change corporate name by virtue of articles of amalgamation or amendment
- Requests for survivorship by surviving joint tenants
- Requests to dispense with production of lost duplicate titles and to have new titles issue

The request/transmission form can be used to issue the title into the name of a representative of the registered owner. Examples include:

- Transmissions by trustees in bankruptcy of bankrupt registered owners
- Transmissions by executors/administrators of the estate of a deceased registered owner

A request/transmission can also be used to ask land titles to perform some action. Examples include:

- Requests for refund of land transfer tax
- Requests for taxation of lawyers accounts in mortgage foreclosure proceedings
- Request to have encumbrances which have lapsed removed from titles
- Requests for the issuance of thirty day notices and subsequent requests to have the encumbrance removed based upon the service of the notice

## **13. What is a form 21? I have been told that in order to register a judgment in land titles I must attach it to a form 21.**

In order to be properly processed and registered in land titles, all documents must set out certain information. In most documents (transfers, mortgages, caveats) there are boxes for all of the required information. Some documents must be attached to a form 21, and the required information will be set out on that form. Examples of documents which will be attached to a form 21 are judgments and orders. A properly completed form 21 will set out the address for service of the claimant, the full name of the debtor, the full name of the registered owner whose interest is targeted and the specific description of the lands against which the document is to be registered.

## FEES, TAXES AND PAYMENT

### 14. How much does it cost to register a document at land titles?

All registration fees are governed by the land titles fee tariff. In addition to the registration fee, most transfers of land will be subject to land transfer tax. Detailed information regarding fees can be obtained at the Property Registry Internet site. The address of that site is:

<http://www.gov.mb.ca/tpr/fees.html>

For details on land transfer tax, please see below.

### 15. What is land transfer tax, and how is it calculated?

By operation of *The Tax Administration and Miscellaneous Taxes Act of Manitoba* a tax called land transfer tax is assessed whenever a transfer of land or of an interest in land is registered at Land Titles. Land transfer tax is collected by the Land Titles Offices on behalf of the Province of Manitoba. This tax is a sliding scale tax, increasing in amount as the land transferred increases in value. The land transfer tax calculation is based on the fair market value of the land transferred. Please note the fair market value is to be the value of the land at the time the transfer is tendered for registration at Land Titles, and not the value of the land at the time the agreement for sale was entered into. This tax is calculated as follows:

Part of value \$	0.00 to \$ 30,000.00	no tax	on that amount;
Part of value \$	30,001.00 to \$ 90,000.00	tax = ½ %	on that amount;
Part of value \$	90,001.00 to \$ 150,000.00	tax = 1 %	on that amount;
Part of value \$	150,001.00 to \$ 200,000.00	tax = 1 ½ %	on that amount; and
Part of value \$	200,001.00 and above	tax = 2 %	on that amount.

The total tax payable is the sum of the tax chargeable on each of the above parts.

The following formulae can also be used to calculate total land transfer tax payable:

Tax = .005 (FMV - \$30,000.) + .005 (FMV - \$90,000.) + .005 (FMV - \$150,000.) + .005 (FMV - \$200,000.) where FMV represents the fair market value of the land as a whole.

## **16. Do I have to pay land transfer tax on this transfer?**

*The Tax Administration and Miscellaneous Taxes Act of Manitoba* requires land transfer tax be paid on all transfers of land unless there is some specific exemption available. Land transfer tax may not be payable if:

- The value of the land transferred is less than \$ 30,000.00
- The transferor is the director of The Veteran Lands Act and the transferee is a veteran or the spouse of a veteran or the common-law partner of a veteran
- The land is farmland, the transferee is a farmer, a spouse or common-law partner of a farmer, or a farmer and the farmer's spouse or common-law partner, and the land will continue to be used for farming
- The land is farmland, the transferee is congregation within the meaning of section 143 of *The Income Tax Act* (Canada) and the land will continue to be used for farming
- The transferee is a registered charity as defined in *The Income Tax Act of Canada*
- The transfer is filed to correct an error in a previous transfer
- The transfer is to facilitate a scheme of subdivision to or from a trustee where there is no change of beneficial ownership
- The transfer is to give effect to a change of name
- The transfer is to change the type of tenure as between the existing owners of the land in question
- The transfer is a transfer of non-commercial property and the transferee is the registered owner's spouse or common-law partner (within the meaning of section 36 (1) (e) of *The Tax Administration and Miscellaneous Taxes Act*) or former spouse or former common-law partner or the executors/administrators of the registered owner's spouse or common-law partner
- The transfer is from a company which has dissolved, and is to the company which held all of its shares immediately prior to dissolution
- The transfer is pursuant to an agreement between an Indian band and the government and the transferee is an Indian band and the land is for the use of the band

Prior to claiming an exemption from land transfer tax, land titles recommends reviewing the provisions of *The Tax Administration and Miscellaneous Taxes Act* and consulting with a lawyer.

## **17. Who can give the evidence that a transfer document is not subject to land transfer tax?**

Tax exemption evidence must as a rule come from the party actually claiming the exemption. Where the transfer is to a farmer and the farmer's spouse or common-law partner, this evidence can come from the farmer alone.

## **18. I have paid land transfer tax in error on a transfer already processed by land titles. How can I get these monies refunded?**

A request for refund of land transfer tax can be made using the request/transmission form. Please attach to the request/transmission form an affidavit containing the evidence entitling you to the refund. This affidavit must be from the same party who should have given the evidence in the transfer of land.

**19. How do I figure out the fair market value of my land? Can land titles help me make this determination?**

The value of land includes the value of all buildings situated on the land at the time of submission of the transfer to land titles.

Land titles can not assist in the calculation of the fair market value of land. In addition land titles does not have or recommend a set method or formula for determining this value.

**20. How can I pay for registrations or services at land titles?**

The Land Titles Offices accept the following forms of payment:

- Cash
- Cheque
- Visa
- MasterCard
- Debit card
- Land titles deposit account

Please note that land titles is not allowed to accept Visa or MasterCard to pay for land transfer tax, for depositing funds to land titles accounts, or for tax sale redemptions.

**21. Is there PST or GST on land titles fees?**

No. Land titles does not collect PST or GST.



## SEARCHES

### 22. How can I search the title to a piece of property?

Land titles has two types of titles, paper titles and electronic titles. All titles created after 1988 in the Winnipeg Land Titles Office are electronic titles, paper titles were still being created in the rural Land Titles Offices until the late 1990's. Electronic titles may be searched online if you have the correct software and an account with Manitoba Online, an intermediary company.

If you do not have an account with Manitoba Online, you can attend in person to any Land Titles Office if the title is electronic, or to the Land Titles Office which has jurisdiction for the piece of land in question if the title is still paper. The staff of that office will perform the necessary searching and give you a copy of the relevant title.

For those who do not wish to actually go to a Land Titles Office, land titles accepts search requests through the mail, via facsimile, or over the telephone (for telephone orders there is a surcharge).

Please be advised that land titles will only be able to perform your search if we are provided with adequate information to identify the property in question. This does not include the street address. See below for a discussion of acceptable searching information.

Land titles charges a fee for all searches.

Please note that all requests for searches should be made using the land titles service request form. This form is available free of charge from any Land Titles Office, and we will be happy to mail a number of these forms to you.

### 23. What is Manitoba Online, and how do I use their services?

In order to access the information stored electronically by land titles you must in some way connect your computer via the phone line to the land titles system. For historical and business reasons you cannot have your computer dial the land titles system directly to make the necessary connection. At present you also cannot make this connection using the internet. The connection is to be made by dialing into Manitoba Online. Manitoba Online is a service provided by a company called Information Systems Management Corporation. The Manitoba Online service is single point of dial in entry to the land titles system as well as to a number of other government databases.

Prior to using the services of Manitoba Online you must set up an account with them, and they will provide you with the necessary software. For assistance with this please call **ISM Customer Service Centre at (204) 944-3000**. Please contact Manitoba Online to find out the fees that they charge for their services.

Detailed information regarding Manitoba Online can also be found at the following website:  
[https://direct.gov.mb.ca/mbohtml/html/internet/en/mb\\_online.html](https://direct.gov.mb.ca/mbohtml/html/internet/en/mb_online.html)

**24. What is the difference between a status of title and a record of title? I want a search of a title and have been told I can have either a status or a record of title.**

Land titles has two types of titles, paper titles and electronic titles. The terms status of title and record of title refer to the different types of information land titles can print out concerning electronic titles. Where the title is paper land titles can only give you a photocopy of the paper title.

A status of title is a print out of certain of the information in a particular title, including the name of the owner of the land, the date the title was created, the land description of the property in the title, and a listing of the current and active charges/encumbrances on the title. In addition, the status sets out detailed information about the encumbrances registered on the title, including the person who registered the encumbrance, the date it was registered, and if applicable the amount of the charge. This detailed information about encumbrances does not appear on the record of title.

Like the status of title, a record of title sets out the name of the owner of the lands in the title being searched, the date the title was created, the land description of the property in the title, and a listing of the current and active charges/encumbrances on the title. In addition to the current and active charges, the record of title shows all past and inactive/discharged encumbrances that were at some past time registered as against the title. In a record of title you will also find the address for service of the owner of the lands, the instrument number of the document which created the title, the title number for the prior title to the lands in question, information about if and when land titles has released the duplicate title, and a copy of the index land titles uses to locate the title.

**25. What information do I need to search the title to a property?**

In order to find the title for a particular piece of land, the land titles staff must as a general rule be provided with the current title number, or the land description. The land description is not the same thing as the civic address. If you own the piece of property this information should appear on your tax bill. If you do not have access to the tax bill, this information is available from the municipal office where the property is outside of Winnipeg, or from the City of Winnipeg assessment department ((204) 986-2161) if the property is located within the city of Winnipeg. Please note that if you attend to the Winnipeg Land Titles Office in person the land titles staff will assist you in finding the land description from the street address for properties located within the City.

**26. What is the difference between a certified status, record, or copy and an uncertified status, record or copy?**

Land titles guarantees that the information in a certified instrument (status, record or copy) is a true and accurate extract of land titles information. Land titles does not make this guarantee if the instrument (status, record or copy) is not certified. A certified instrument will have an original signature of either the district registrar or staff of the office designated to sign on behalf of the district registrar.

### **27. How can I find out what someone else's property is worth?**

Land titles does not have that specific information, however we can tell you what the current owner paid for the property and what they swore it was worth at the time. This information is only available if the current owner acquired the lands in question by a transfer of land, as this is the document in which the information is to be found. The staff at Land Titles Office can search out this transfer for you. If the document was a transfer of land you should be able to see the amount paid (consideration) and the sworn value of the property.

### **28. Can anyone look at my title?**

Documents and records at land titles are part of the public record and can be searched by any person, provided that the person searching is willing to pay the required fee and can provide a land description, title number, document registration number or name. Titles which are still paper, and are not yet in the electronic system cannot be located by searching by the owner's name. Also where the owner of a property has his or her name on the protected names list a search by name will not find their titles.

### **29. I understand that people can search by name through land titles records to find out the property someone owns. How can I prevent anyone from finding out what I own? I have concerns for my safety!**

Land titles has what we call a protected names list. Once your name is on the protected names list your title cannot be found through a names search. Your title will remain a public record and can be searched by the general public if the search is done by land description, title number, or document registration number.

To get on the protected names list you must apply for this status, and:

- You must have obtained a peace bond, restraining order or non-molestation order against any person; or
- There must be in effect an order of judicial interim release (recognizance or undertaking) or probation containing a condition that the person named therein shall not have contact with you or communicate with you.

### **30. Can land titles tell me who owns the mines and minerals under a piece of land?**

Ownership of mines and mineral rights in Manitoba is very complex and may be difficult to search. Land titles suggests that anyone dealing with mines and minerals consult a lawyer familiar with the issues associated with mines and minerals.

## HISTORICAL INFORMATION

### **31. I wish to apply for century farm status, how can land titles help me?**

Manitoba Agriculture and Food's Century Farm Program was introduced in early 1981 to honour Manitoba's pioneer farm families. Century Farm Status is available where a family has owned a century farm unit continuously for one hundred years. Land Titles can help prove this ownership through what is called an historical search. Historical searches involve tracing the ownership backward, copying each title in the chain of dealing with the land in question. Land titles charges a title search fee for each title in the chain of titles.

Application forms for Century Farm Status are available from all Manitoba Agriculture and Food Offices and at Manitoba Rural Municipal offices. The Manitoba Agriculture and Food, Central Region Office contact information is as follows:

25 Tupper St. N.  
Portage la Prairie MB R1N 3K1 PH: (204) 239-3375 FAX: (204) 239-3403

Forms are also available on the internet, as is further information about the process. Please visit: [www.gov.mb.ca/agriculture/organizations/centuryfarms/](http://www.gov.mb.ca/agriculture/organizations/centuryfarms/)

### **32. How can I find out if a particular person, such as one of my ancestors, owned land in a part of Manitoba?**

Prior to computerization (which occurred in the Winnipeg Land Titles Office in 1988, and in the rural offices in the late 90's) there was no way to search by an owner's name. After computerization land titles can search by owner's name, but only where the title was created in the electronic system. As a result a search of land ownership by owner's name for property owned prior to 1988 is impossible.

The only thing land titles can suggest is obtaining a specific land description of the land you think was owned by the person you are interested in. Land titles staff can then perform an historical search of this property. Historical searches involve tracing the ownership backward, copying each title in the chain of dealing with the land in question. Land titles charges a title search fee for each title in the chain of titles.

If your enquiry is of an historical nature and has to do with who homesteaded a property, the Manitoba Archives may be able to assist you in locating homestead records, their homestead records are indexed by name. These records should have the exact land description of the property in question. Their phone number is (204) 945-3971.

You may also check with the Genealogical Society of Manitoba for local history books, burial records, and related materials. They can be reached at (204) 783-9139.

If you know the location of where the individual in question may have settled you may search census records up to 1901 at the Winnipeg Centennial Library.

October 24, 2007

You can obtain a list of certified genealogical researchers from either the Manitoba Archives or the Manitoba Genealogical Society. These researchers may be able to assist you.

## TITLE INFORMATION

### **33. What is the difference between a duplicate title and the original title?**

Where the original title is still paper, the original title is a paper document on file in a book at the Land Titles Office. This document officially records certain information pertaining to land, including the owner of the land, the land description of the property in the title, and the interests and claims of interest of parties other than the registered owner. Where the title is now in the Land Titles electronic database all of this same information is stored electronically and is assigned a title number. There is no actual physical title. However the title is created, on paper or electronically, the Province of Manitoba guarantees the information in the title.

A duplicate title (or duplicate certificate of title) is a document which reflects all of information that was contained in the original title as of the moment the duplicate title was created, be that at the same moment as the original title, or at some later date as requested by the owner of the lands in the title.

Given the fact that duplicate titles, which are in the owners' possession, cannot be kept up to date by Land Titles, the duplicate title will not always stay identical to the original title. The reason for this lies in the fact that Land titles will accept for registration a number of documents, including caveats, judgments and builders' liens without requiring the production or presentation of the duplicate title. As a result these instruments will be shown on the original title and not on the duplicate title. Accordingly a duplicate title can only be trusted to be current as of the date on which it was created.

It is very important to be aware that duplicate titles are valuable documents, documents that must be kept in a safe place. To begin with, land titles will not allow a transfer or a mortgage to be registered in land title unless either we have the duplicate title in our files or it is submitted by the client with the transfer or the mortgage. Given the manner in which land titles treats duplicate titles, certain lending institutions will lend monies to clients, holding only the duplicate title as security.

In response to the many and often considerable complications arising from the loss or destruction of duplicate titles Land Titles no longer issues duplicate titles.

### **34. Do I have to send in my title when registering a transfer at land titles?**

Land titles does require all clients registering transfer documents to provide their title (duplicate certificate of title) to land titles if it is not already on file at land titles. This also applies to mortgages.

### **35. Can I get my title from land titles any time I want?**

In response to the many and often considerable complications arising from the loss or destruction of duplicate titles Land Titles no longer issues duplicate titles.

### **36. I have lost my title and now I need it. What can I do?**

If you have lost your duplicate title and you need it to mortgage or transfer land titles will allow you to go ahead without it provided we are satisfied that the duplicate title has been lost or destroyed. As proof that the title has been lost or destroyed we ask for a sworn document signed by all of the owners of the land. This document is called an affidavit of lost title. This affidavit must contain statements that you have made an exhaustive search for the duplicate title and cannot find it, that you believe that it has been lost or destroyed and that you have not used the duplicate title as security for a loan. A form of this affidavit can be picked up at any Land Titles Office.

Once prepared and sworn this affidavit is to be attached to the mortgage or transfer form filed with it.

### **37. Why do I need to provide an address for service?**

When land titles receives a registration against a title which the owners may not be aware of land titles mails a notice to the owner. This notice is mailed to the "address for service" set out on the owner's title. Land titles only sends notices where the owner was not a party to the document that has been filed. As such land titles will not send a notice where a mortgage has been filed, but will send a notice where a caveat, builder's lien, or judgment has been filed. Finally, certain of the documents which are served upon the registered owner of lands being in foreclosure proceedings are sent only to the address for service on title.

Please be aware that if your address for service is not kept up to date you may not get notification of registrations which may affect your rights of ownership.

### **38. How can I keep my address for service current?**

A land titles request/transmission form can be used to update your address for service. In box 2 of the request/transmission form (where it says, "apply by virtue of") please insert wording similar to the following:

Request to change my address for service. My new address for service is:

Jane Doe  
1234 Anystreet  
Anytown MB R1A 1A1

Please be aware that if your address for service is not kept up to date you may not get notification of registrations which may affect your rights of ownership.

October 24, 2007

**39. My spouse and I have recently divorced and I wish to change my surname on my title to the surname I had at birth/to the surname I had before I was married. How do I do this?**

A land titles request/transmission form with a *Certificate of Divorce* attached can be used to change your name on title. Following divorce you are legally entitled to change your surname to either your birth surname or the surname you had immediately before marriage.

In box 1 of the request/transmission form please insert your full true and correct name, using the name you wish to assume as your last name. In box 2 of the request/transmission form (where it says, "apply by virtue of") please insert wording similar to the following:

Request to change my surname to my birth surname following divorce. My full and complete birth name and the name I wish to resume the use of is "Jane Mary Doe".

Or

Request to change my surname following divorce to the surname I had immediately prior to the marriage. The full and complete name I had prior to the marriage and the name I wish to resume the use of is "Jane Mary Doe".

In box 6 of the request/transmission form a statement will have to be added connecting the old and new names together. Please insert wording similar to the following:

The Jane Mary Brown shown on certificate of title no. 1234567 is one and the same person as the Jane Mary Doe set out as the applicant above, and the Jane Mary Brown in the attached *Certificate of Divorce*.

Please attach your *Certificate of Divorce* to the request/transmission form.



**40. My common-law partner and I have recently dissolved our common-law relationship and I wish to change my surname on my title to the surname I had at birth/to the surname I had before the common-law relationship. How do I do this?**

A land titles request/transmission form with a *Certificate of Resumption of Surname* from the Department of Vital Statistics attached can be used to change your name on title. Following dissolution of a common-law relationship you are legally entitled to change your surname to either your birth surname or the surname you had immediately before your common-law relationship.

In box 1 of the request/transmission form please insert your full true and correct name, using the name you wish to assume as your last name. In box 2 of the request/transmission form (where it says, "apply by virtue of") please insert wording similar to the following:

Request to change my surname to my birth surname following dissolution of a common-law relationship. My full and complete birth name and the name I wish to resume the use of is "Jane Mary Doe".

Or

Request to change my surname following dissolution of my common-law relationship to the surname I had immediately prior to the common-law relationship. The full and complete name I had prior to the common-law relationship and the name I wish to resume the use of is "Jane Mary Doe".

In box 6 of the request/transmission form a statement will have to be added connecting the old and new names together. Please insert wording similar to the following:

The Jane Mary Brown shown on certificate of title no. 1234567 is one and the same person as the Jane Mary Doe set out as the applicant above, and the Jane Mary Doe in the attached *Certificate of Resumption of Surname*.

Please attach the *Certificate of Resumption of Surname* to the request/transmission form.

October 24, 2007

**41. I have recently entered into a common-law relationship and wish to change the surname on my title to the surname of my common-law partner/to a surname consisting of both our surnames combined/to the surname of my common-law partner, retaining my surname as a given name. How do I do this?**

A land titles request/transmission form with a *Certificate of Election of Surname* from the Department of Vital Statistics attached to it can be used to change your surname on your title. As a party to a common-law relationship you are legally entitled to change your surname to either the surname of your common-law partner, to a surname consisting of both your surnames combined or to the surname of your common-law partner, retaining your own surname as a given name.

In box 1 of the request/ transmission form please insert your full true and correct name, using the surname you wish to assume as your last name. In box 2 of the request/transmission form (where it says, "apply by virtue of") please insert wording similar to the following:

Request to change my name as a result of common-law relationship. My new name is "Jane Mary Doe".

In box 6 of the request/transmission form a statement will have to be added connecting the old and new names together. Please insert wording similar to the following:

The Jane Mary Brown shown on certificate of title no. 1234567 is one and the same person as the Jane Mary Doe set out as the applicant above, and in the attached *Certificate of Election of Surname*.

Please attach the *Certificate of Election of Surname* to the request/transmission form.

**42. I have recently married and wish to change the surname on my title to my spouse's surname/to a surname consisting of both our surnames combined/to the surname of my spouse, retaining my surname as a given name. How do I do this?**

A land titles request/transmission form with the Vital Statistics Branch *Marriage Certificate* attached to it can be used to change your name on title to your married name. As a married person you are legally entitled to change your surname to either the surname of your spouse, to a surname consisting of both your surnames combined or to the surname of your spouse, retaining your own surname as a given name.

In box 1 of the request/ transmission form please insert your full true and correct name, using your married name as your last name. In box 2 of the request/transmission form (where it says, "apply by virtue of") please insert wording similar to the following:

Request to change my name following marriage. My married name is "Jane Mary Doe".

In box 6 of the request/transmission form a statement will have to be added connecting the old and new names together. Please insert wording similar to the following:

The Jane Mary Brown shown on certificate of title no. 1234567 and in the attached *Certificate of Marriage* is one and the same person as the Jane Mary Doe set out as the applicant above.

Please attach the *Marriage Certificate* to the request/transmission form.

**43. My name is not correctly spelled on my title. How can I correct it?**

A land titles request/transmission form with a certified copy of your birth certificate attached to it can be used to correct typographical error in your name on title or to add in a missed middle name. In box 1 of the request/ transmission form please insert your full true and correct name. In box 2 of the request/transmission form (where it says, "apply by virtue of") please insert wording similar to the following:

Request to correct the spelling of my name. My true, full and correct name is "Jane Mary Doe".

In box 6 of the request/transmission form a statement will have to be added connecting the old and new names together. Please insert wording similar to the following:

The Jane Merry Doe show on certificate of title no. 1234567 is one and the same person as the Jane Mary Doe set out as the applicant above, and in the attached birth certificate.

## CHANGES IN OWNERSHIP

### **44. My spouse has just passed away. How do I get our lands into my name alone?**

If a title to lands is in the name of two or more people jointly (as joint tenants) a survivorship request may be filed in land titles. This is done using the request/transmission form. In addition to this form, land titles will require the original or a notarial copy of the death certificate from Vital Statistics and the title (duplicate certificate of title) if it is not already on file at land titles.

Please note that the land titles staff would be pleased to order the death certificate from Vital Statistics and prepare the survivorship request for you. Other than the standard fee for the registration of the request, and for the death certificate, this service is provided at no extra charge.

If the title is not held jointly then you will have to probate the deceased person's estate, and then deal with the land in the same manner as any other asset of your their estate. It is suggested you contact a lawyer to assist you with the estate documentation that may be required.

### **45. I am named as executor in the will of a close family member. All of the other assets of the estate have been dealt with, leaving only one piece of property. Do I have to have the will probated in order to deal with the property?**

Yes, the will must be probated. Land titles is not allowed to rely on the will itself as proof that the executor has the authority to deal with the assets of the deceased. Where the property is of a low value the courts do have an expedited and easier process. You should talk to the Court of Queen's Bench Surrogate Practices Office ((204) 945-3184) for more information.

### **46. How can I add another name to my title? Does it make any difference if this person is my spouse, parent, child, or sibling?**

Any time the ownership of land changes a transfer of land must be filed at land titles to change the names on the title. This is as true when an interest in the land is acquired by a family member as it is when all of the land is purchased by a total stranger. All transfers of land, including those to family members, must list as transferees all of the people who will own the land after the transfer is registered, even if they are already on title. Please be aware that all of the people who appear on the title as owners must sign the transfer of land form, even if they are also the transferees (they will still be owners after the transfer is registered).

### **47. How do I remove a name from my title? Does it make any difference if this person is my spouse, parent, child, or sibling?**

Unless the person you are seeking to remove has passed away, anytime a person is removed from title a transfer of land form must be completed and brought in to land titles for registration. This is true even when the person being removed from title is a spouse or family member. Please be aware that all of the people who appear on the title as owners

October 24, 2007

must sign the transfer of land form, even if they are also the transferees (they will still be owners after the transfer is registered).

**48. What is Homesteads Act evidence? I have had a transfer rejected by the land title staff and they tell me I need this.**

A homestead is a residence, and possibly some or all of the lands upon which the residence is situated, occupied by the owner and the owner's spouse or common-law partner as their home. A condominium unit and associated common elements can also be a homestead. Before allowing certain documents to be registered in Land Titles (including transfers and mortgages) Land Titles will need to know if the land is a homestead and if it is, may require certain other information, including the consent of the owner's spouse or common-law partner. As this is a legal question Land Titles will not advise whether or not a particular parcel of land is a homestead. We advise that you consult a lawyer on this matter.

Here are some examples of acceptable Homestead Act statements:

- My co-transferor is my spouse or common-law partner and has homestead rights in the within lands.
- My co-mortgagor is my spouse or common-law partner and has homestead rights in the within lands.
- I have no spouse or common-law partner. No other person has acquired Homestead rights in the within lands during my ownership.
- The within lands are not my homestead.
- The within lands are not homestead property.
- I have never had a spouse or common-law partner.
- The person consenting to this disposition is my spouse or common-law partner and has homestead rights in the within lands.
- I am one of the transferees and my co-transferee is my spouse or common-law partner and has homestead rights in the within lands.
- The within lands were not the homestead of the deceased John Brown.
- The deceased John Brown had no spouse or common-law partner at the time of his death and no other party acquired homestead rights in the within lands during his ownership.
- The transferee was the spouse or common-law partner of the deceased John Brown at the time of his death and has homestead rights in the within lands.

**49. I have sold my property and I do not want to hire a lawyer. Will the land titles staff complete the documents for me?**

The staff of the Land Titles Offices is prohibited by law from assisting in the completion of legal documents. If you wish, you can complete these documents on your own, and once completed, submit them for registration. Land Titles will register and then examine your completed documents upon receipt. If there are any errors with the documents discovered during the examination process, Land Titles will return the documents to you with written reasons as to what is wrong. A \$20.00 fee is charged each time documents are returned.

October 24, 2007

**50. I have sold my property and I do not want to hire a lawyer. Can I complete the forms myself?**

Yes, you can complete land titles forms yourself - you are never required to hire a lawyer to register documents at land titles. However, it is often a very wise decision and we do recommend that you obtain legal advice. Registration of documents causes land titles records to be changed and this can significantly change your legal position and rights. To fix an error after registration can often be expensive or perhaps not even possible without going to court to obtain a court order.

## **MORTGAGES**

### **51. I have paid off my mortgage. What do I have to do to get it off my title?**

Once a mortgage has been paid off the lender should prepare a form called a discharge. Sometimes the lender sends this document directly to land titles for registration. When the lender does this the mortgage is removed from your title without any action on your part. Other times the lender will prepare the discharge form, but because they do not want to pay the land titles registration fees they will send it directly to you.

If the lending institution sends the discharge to you, it is then up to you to bring the discharge into land titles for registration. The registration process is very simple, and involves little more than paying the required fee and dropping off the discharge document. Dropping off the discharge for registration should take no more than five or ten minutes and the staff will be pleased to assist you.

If the discharge form has been sent to you by the lending institution, please be aware that it is very important for you to bring it into land titles as soon as you are able. If you do not bring in the discharge form and then you lose it, the mortgage will stay registered on your title. A lost discharge is hard to replace as many lenders are very reluctant to issue new discharges, and some in fact utterly refuse to. This lost discharge can be a great problem when you try to deal with the property at a later date, either to sell it, or to mortgage it again. New lenders and purchasers will demand the discharge of the old mortgage before they give you any money.

### **52. I paid off my mortgage, but it is still on my title. What can I do?**

The first step to get a mortgage removed from your title is to look through all documentation you have received from the lender. Look for a document called a discharge. If you find this form, bring it in to land titles for registration. The registration process is very simple, and involves little more than paying the required fee and dropping off the discharge document. The staff will be pleased to assist you in this. If the lender has not given you a discharge, or has but you have lost it, contact the lender as soon as possible and ask for another discharge form. This then should be brought into land titles as soon as possible.

If you are unable to find the lender, or the lender refuses to give you a discharge you have two options. The first option is to make an application to the registrar general of land titles (this is the person in charge of all land titles for the province of Manitoba) for an order discharging the mortgage. This application is made using the land titles request/transmission form. You must attach to this form all the proof that you can find that the mortgage has in fact been paid in full. As this is a complicated process we advise you to get legal assistance. If the registrar general is satisfied that the mortgage has been paid off, and that it should be discharged, he or she will order it discharged.

If you do not want to make application to the registrar general, or you have made such an application and have been refused, you must go to court for an order of the court. As this is a very complicated legal process land titles can provide no assistance and advises you to talk to a lawyer.



**53. I paid off my mortgage years ago, but I do not know if the mortgage has been removed from my title. How can I find this out?**

We advise coming into the Land Titles Office and having one of the staff perform a search of your title. An up to date search of your title will show you all of the registered charges on your title. If the mortgage is still alive the title search will show this.

**BUILDERS' LIENS, JUDGMENTS AND CAVEATS**

**54. I believe that someone has registered or will be registering a lien/judgment against my land. How can I find out if this has happened?**

Anytime a caveat, judgment or builder's lien is registered at land titles on someone's title land titles mails a notice to the owner of the lands telling them that this has happened. This notice is sent to the address for service we have in our records for the owner of the lands. Because this is the only notification that many people get that something has been registered on their title, it is very important to keep your address for service up to date with the Land Titles Office.

If you have not received such a notice, and you are still concerned, you may want to come into the Land Titles Office and have the staff perform a search of your title. An up to date search of your title will show you all of the registered charges on your title. If a judgment, lien or caveat has been registered on your title, the title search will show this. If you are concerned about a builders' lien, you should also ask the staff to help you to search the builders' liens list and your certificate of title.

**55. I just received a notice in the mail telling me that a caveat has been registered on my title. What is a caveat?**

Caveats are notices from parties who are not owners of lands that they are claiming some right or interest in the lands. Usually this claim results from some agreement entered into between the owner of the lands and the person who filed the caveat. For example many people give Manitoba Hydro the right to run power lines across their lands. Manitoba Hydro will register a caveat to let anyone searching the title know of their agreement with the owner of the lands. This is particularly useful for providing information to people looking to purchase lands.

**56. How can I get a caveat off my title? I am unable to get a discharge from the person who put it on my title.**

An unwanted Caveat can be removed from a title in one of two ways. The simpler and less expensive procedure is called lapsing. Unfortunately lapsing it is not always an option. Lapsing can only be done if it is clear by reading the caveat itself that it has expired. For example if the caveat says that it is for a lease of five years from October 1, 1933, and it is now 1999, the caveat has clearly expired. Please be advised that Land Titles cannot look to other evidence, the caveat must have expired on its face. To have a caveat that has expired as set out above removed (lapsed), a land titles request/transmission must be registered by the party seeking the removal of the caveat. Upon receipt of the request/transmission Land Titles will examine the caveat, and if satisfied that the it has indeed expired, Land Titles staff will lapse the caveat (remove it from the title).

Where the interest claimed in the caveat has not obviously expired a two step procedure must be followed to remove the unwanted registration. This process is called the thirty day notice process. The thirty day notice process consists of sending a notice to the person who filed the caveat telling them that if they want the caveat to stay on the title they must take you to court.

The thirty day notice process is started by the filing in Land Titles of the land titles request/transmission form asking for a thirty-day notice. Please note that Land Titles does not issue thirty-day notices as a matter of right. The request/transmission form must contain evidence in the form of a statement stating why the Caveat should not be registered against the title. Once Land Titles receives this request we will prepare the thirty-day notice form and send it to you, but only if we are satisfied that the evidence provided supports the request for removal.

Upon receipt of the thirty day notice it is your responsibility to serve the notice on the person who registered the caveat. Service means give it or send it to the person. Land Titles will ask that you mail the notice if the caveat has an acceptable address, or give it to the person in person if the caveat does not. Once the thirty-day notice has been served on the person who registered the caveat, they have thirty days to sue you and file a court order in Land Titles telling us that they have done so. That order is called a pending litigation order. If this happens Land Titles will not remove the caveat without a court order.

Once the thirty days has passed, and provided that a pending litigation order has not been filed at Land Titles, you may then file a second request/transmission form at Land Titles, requesting that the Caveat be removed. Because Land Titles must be satisfied that the party to be served has had proper notice you must prove to Land Titles that you did in fact serve the notice and when this service took place. This is done by attaching a sworn document called an affidavit of service. In that document you swear that you served the notice, how you served it, and when you served it. A copy of the thirty day notice served must be attached to that sworn document. Land Titles does not assist in the preparation of that affidavit. Once satisfied that the thirty day notice was in fact properly served Land Titles will remove the unwanted caveat from the title.

Please be advised that certain caveats cannot ever be removed by the thirty day notice process. Land Titles will not remove district registrar's caveats, or building restriction caveats by this second process. Land Titles will also only rarely remove easement caveats by this process.

**57. How can I get a judgment off my title? I am unable to get a discharge from the person who put it on my title.**

The procedure for removing an unwanted judgment is the same as the procedure set out above for removing a caveat which has not expired – the two step thirty day notice procedure.

Please note that land titles will not allow judgments for child support to be removed by this process.

**58. How can I get a builder's lien off my title? I am unable to get a discharge from the person who put it on my title?**

Similar to caveats there are two ways to remove an unwanted builder's lien from a title. The first method is again the simpler of the two and can be followed where two years have passed from the date of the filing of the builder's lien on your title. To have the builder's lien removed, a land titles request/transmission must be registered.

Upon receipt of this request Land Titles will remove the builder's lien provided that no pending litigation orders have been registered on the affected title and provided that two years have indeed passed since the date the builder's lien was registered. If a pending litigation order has indeed been registered against the affected title, Land Titles will not remove the builder's lien, even if the pending litigation order was registered by a party other than the party who registered the builder's lien.

If the two-year period has not yet passed, and you still want to remove the builder's lien, the two step thirty day notice procedure must be followed. This procedure is very similar to the procedure set out above for removing a caveat which has not expired, the only substantive difference between the two procedures being that the party who is requesting the thirty day notice does not have to give Land Titles any reason to support their application. Thirty day notices regarding builders' liens are issued as a matter of right to the owners of affected lands.

**59. A person owes me money. Can I register a lien on their land?**

Depending on your specific circumstances you may be able to register a caveat, a builder's lien, a judgment, a pending litigation order, or an attaching order on the lands of the person who owes you the monies. As this can be a complicated process land titles staff are not able to assist you, and we advise you to get legal advice.

## **MARRIAGE, BIRTH AND DEATH CERTIFICATES**

### **60. I understand that I may need a death certificate to accompany a registration at Land Titles. Can I use the death certificate provided by the funeral director?**

Where the deceased passed away inside the Province of Manitoba, Land Titles will only accept a death certificate produced by the Department of Vital Statistics. Where the individual passed away outside of the Province Land Titles will require a similar type of document from the jurisdiction in which the death took place.

### **61. Do I have to go to the Vital Statistics office to obtain the death certificate?**

Persons requiring birth, death and marriage certificates to accompany Land Titles registrations do not need to go to the Vital Statistics office. The required certificate can be ordered right from the Land Titles Office at the time that you register your documents. Because Land Titles charges no additional fee for providing this service the fee to be paid for the certificate is the same as the fee that would be paid if the certificate was obtained directly from Vital Statistics.

### **62. I understand that I may need a marriage certificate to accompany a registration at Land Titles. Can I use the marriage certificate provided by my church?**

Where the marriage took place inside the Province of Manitoba, Land Titles will only accept a marriage certificate produced by the Department of Vital Statistics. If the marriage took place outside of the Province Land Titles will require a similar type of document from the jurisdiction in which the ceremony took place.

### **63. Do I have to go to the Vital Statistics office to obtain the marriage certificate?**

Persons requiring birth, death and marriage certificates to accompany Land Titles registrations do not need to go to the Vital Statistics office. The required certificate can be ordered right from the Land Titles Office at the time that you register your documents. Because Land Titles charges no additional fee for providing this service the fee to be paid for the certificate is the same as the fee that would be paid if the certificate was obtained directly from Vital Statistics.

### **64. I understand that I may need a birth certificate to accompany a registration at Land Titles. Do I have to go to the Vital Statistics office to obtain the birth certificate?**

Persons requiring birth, death and marriage certificates to accompany Land Titles registrations do not need to go to the Vital Statistics office. The required certificate can be ordered right from the Land Titles Office at the time that you register your documents. Because Land Titles charges no additional fee for providing this service the fee to be paid for the certificate is the same as the fee that would be paid if the certificate was obtained directly from Vital Statistics.

October 24, 2007

**65. I require a birth (death or marriage) certificate for my own purposes and not to accompany a Land Titles registration. Can I order this document at a Land Titles Office?**

Persons requiring birth, death and marriage certificates for their own purposes can also order the Certificate from the Land Titles Office. Land Titles charges no fee for providing this service and accordingly the fee to be paid for the certificate is the same as the fee that would be paid if the certificate was obtained directly from Vital Statistics.

**66. What is the address and phone number of the Vital Statistics Office?**

Vital Statistics Agency  
254 Portage Ave  
Winnipeg MB R3C 0B6  
(204) 945-3701

## CORPORATIONS

**67. My corporation is acquiring land in the Province of Manitoba. My corporation was incorporated in Manitoba. What does Land Titles require?**

Where a corporation has been incorporated in the Province of Manitoba, Land Titles staff will automatically search the Manitoba Companies Office database to ensure the corporation is in good standing prior to issuing title into the name of the corporation. At no time will Land Titles require proof of incorporation or a current certificate of status from the registrant.

**68. My corporation is acquiring land in the Province of Manitoba. My corporation was incorporated outside of the Province of Manitoba. What does Land Titles require?**

Where a corporation has been incorporated in a foreign jurisdiction (that includes any jurisdiction other than Manitoba) the corporation must first register with the Manitoba Companies Office. Land Titles will not issue title to a corporation not registered with the Manitoba Companies Office. As with corporations originally registered in Manitoba, Land Titles staff will search the Manitoba Companies Office database automatically to ensure good standing and accordingly will not require proof of incorporation or current status from the registrant.

**69. My corporation is transferring (or mortgaging) land in the Province of Manitoba. Title is already in the name of the corporation. What does Land Titles require?**

Prior to allowing a corporation to deal with land the staff at Land Titles must be satisfied that the corporation is currently in good standing. Land Titles staff will automatically search the Manitoba Companies Office database to ensure the corporation is in good standing prior to allowing any dealing by the registered owner. At no time will Land Titles require proof of incorporation or a current certificate of status from the registrant.

**70. My corporation is acquiring a mortgage on lands in the Province of Manitoba. My corporation was incorporated in the Province of Manitoba. What does Land Titles require?**

Where a corporation has been incorporated in the Province of Manitoba Land Titles staff will automatically search the Manitoba Companies Office database to ensure the corporation is in good standing prior to allowing the corporation to become the mortgagee of lands. At no time will Land Titles require proof of incorporation or a current certificate of status from the registrant.

**71. My corporation is acquiring a mortgage on lands in the Province of Manitoba. My corporation was not incorporated in the Province of Manitoba. What does Land Titles require?**

A corporation incorporated in a foreign jurisdiction (that includes any jurisdiction other than Manitoba) does not have to register with the Manitoba Companies Office in order to hold a mortgage on lands. In these cases the Land Titles staff are not able to automatically verify the status of the corporation and accordingly Land Titles requires proof of the corporation's good standing from the jurisdiction in which the corporation is registered. This proof must be in the form of a Certified Status (or similar document). This document can be no more than two years old to be acceptable at Land Titles. Please note that in the event the foreign corporation forecloses under the mortgage Land Titles will only allow title to issue into the name of the foreign corporation if they register with the Manitoba Companies Office.

**72. My corporation owns land in Manitoba (or has a mortgage on lands in Manitoba). The corporation has changed its name by virtue of amendment (or amalgamation). What does land Titles require for the corporation to be able to deal with the land (mortgage)?**

Where the corporation is registered in Manitoba the Land Titles staff will endeavor as a public service to find proof of the chain of corporate name in the Companies Office database. If the staff is unable to find this proof Land Titles will require the registrant to provide the necessary proof, in the way of certified copies of Articles of Amendment (Amalgamation). If the corporation is not registered with the Manitoba Companies Office this information must be provided by the registrant as Land Titles staff have no way of searching for this information otherwise. If the information is already on deposit with Land Titles you need not provide the information a second time, simply refer in your documents to the deposit number assigned to the information.

**73. What is the address and phone number of the Companies Office?**

Companies Office  
10<sup>th</sup> Floor 405 Broadway  
Winnipeg MB R3C 3L6  
(204) 945-2500

## **SUBDIVISION, PLANNING AND SURVEY QUESTIONS**

### **74. Can I get a copy of a plan?**

Depending on your needs, land titles can provide you with a copy of part or all of any plan on file at land titles. If you require a copy of part of a plan any office can provide this, however only the Winnipeg Land Titles Office has the machine required to copy an entire plan. Any plan from any office can be copied in the Winnipeg Land Titles Office. Please consult the land titles fee regulation or contact a member of the staff to find out the cost associated with this service.

### **75. Can land titles give me a copy of the survey certificate for a particular property?**

Survey certificates are not filed at the Land Titles Office, and land titles has no record of who might have prepared a survey certificate for a given property. In addition survey certificates have not been prepared for all properties in Manitoba. If you know the survey firm that prepared the original survey certificate they may be willing to prepare a copy for you.

### **76. I wish to subdivide my property, but do not wish to pay for a surveyed plan. Under what circumstances may I subdivide without having a plan prepared?**

In general, the only subdivisions which do not require plans are the first and second transfers out of a whole quarter section. In addition to being the first or second "split", the land descriptions of the pieces being split out must conform to land titles regulations concerning simplicity of land description. What this means is that only simple rectangular shapes will be allowed. In some cases a transfer will be allowed by description when the limits of the land to be transferred can be described using existing neighboring plans.

### **77. I have been told that to subdivide my property I must have a plan prepared. Why is this?**

Plans of subdivision are required for many reasons. These include:

- Plans provide a clear and concise picture of the land being subdivided and thus eliminate the confusion and uncertainty created by multiple splits by land description.
- When plans are prepared permanent survey bars are placed in the lands being subdivided, which bars can be used later for locating property boundaries.
- Having a plan prepared is one way to ensure that the land actually being subdivided is the land that is intended to be subdivided.
- Having a plan prepared ensures that tree lines, fences, buildings, roads, and the like are on the property they are intended to be on.
- All new plans add to the survey fabric or monumentation of the lands in the province, making land holding overall more certain and safer.



**78. I have been told that to subdivide my land I need a plan, can I use my survey certificate?**

No, you cannot use a survey certificate as a plan of subdivision. A survey certificate is not a registerable plan. A survey certificate is a document that is prepared for the zoning officials of a city or municipality. Its purpose is to show compliance with zoning and other local regulations. It is also used by lending institutions to assure them that the buildings with respect to which funds are being advanced are contained within the limits of the property being mortgaged. As a result of the reasons for its creation the survey certificate shows a great deal of information not required by land titles (the location of buildings) and does not show information land titles requires (such as surrounding survey fabric required to locate the land).

**79. How much does a plan of subdivision cost to have prepared?**

The cost associated with the preparation of a plan of subdivision varies greatly depending on the complexity of the subdivision and the time required to perform the field survey. Plans of subdivision are prepared by accredited Manitoba Land Surveyors who should be happy to provide an estimate of the cost before proceeding. Look under "surveyors" in the yellow pages.

**80. How much will it cost to have a plan of subdivision registered in the Land Titles Office?**

Registration costs vary greatly depending on the complexity of the plan and the number of documents to be registered. The best thing to do would be to consult with the staff of the Land Titles Office.

**81. What does metes and bounds mean?**

Metes and bounds is one way of describing a piece of land without using a plan. Technically it is a description which progresses in an orderly manner from point to point. By common usage it has become associated with virtually any description of land which is not a lot or parcel in a plan.

**82. Do I need a lawyer or a surveyor to subdivide my property?**

The only time you have to hire a surveyor is when land titles requires a plan to be prepared to process the subdivision. Land titles never requires you to retain the services of a lawyer. This said a surveyor and a lawyer are always recommended by land titles. The surveyor will ensure that the lands being subdivided are the lands the parties intend to subdivide, and the lawyer will ensure the proper completion and registration of required documentation.

**83. When subdividing does the plan have to be prepared by a surveyor or can anyone who knows how to survey prepare it?**

October 24, 2007

Only a commissioned Manitoba Land Surveyor is authorized to prepare a plan of subdivision in the province of Manitoba. This is set forth in *The Land Surveyors Act* and in *The Real Property Act*.

**84. I have had a plan prepared. What signatures do I have to get?**

The following signatures are required on a plan of subdivision:

- Planning (community economic development services)
- The registered owners
- All encumbrancers if lands are being dedicated to public use – if for example a new road, is being created
- The registrar general of land titles
- The examiner of surveys

A plan of survey requires only the signature of the examiner of surveys, and sometimes planning (community economic development services). Your surveyor or lawyer can assist you in obtaining the required signatures.

**85. In addition to a plan, what documents do I need to file?**

Documents to be filed with a plan of subdivision or survey may include:

- The registration details application form (the R.D.A.)
- Duplicate titles for all of the affected lands if they have been issued by land titles
- Requests for new titles using the land titles request/transmission form
- Transfers for any lots to be transferred to new owners
- Documents such as caveats or easements which may be required as a condition of planning approval
- Discharges of caveats or mortgages affecting lands to be consolidated

**86. I am acquiring a piece of land and consolidating this with my existing land. Will this cause problems?**

Consolidations can cause quite severe problems. Existing mortgages which only affect some of the lands being consolidated will likely have to be discharged and then new mortgages will have to be registered. Certain caveats may have to be discharged. Further, to later separate two pieces of land which have been consolidated may require planning approval, which can be an expensive process. It is strongly recommended that any one considering consolidating two pieces of land obtain legal advice with regard the possible costs and long term ramifications before proceeding.

October 24, 2007

**Revisions:**

January 9, 2006 *In Questions 15 and 16, The Tax Administration and Miscellaneous Taxes Act replaces The Revenue Act.*  
The Tax Administration and Miscellaneous Taxes Act (formerly R150, *The Revenue Act*)  
T2 RSM 1987, c. R150