

Subject Quit Claim Letters Patent		Policy PL 2.02.01	
Compiled by - Branch Lands & Waters	Section Land Management	Date Issued February 11, 1997	
Replaces Directive Title Issue of Quit Claim Letters Patent	Number LM 7.07.01	Dated Aug. 14, 1984	Page 1 of 5

1.0 DEFINITIONS

In this policy,

"adverse possession" means the actual, continuous, exclusive, open, peaceable and undisturbed possession of land, which is adverse to the true owner;

"claim" means a claimant's contention to have extinguished all right, title and interest of the Crown;

"claimant" means a person claiming through himself/herself and his/her predecessors in possession to have adverse possession of public land for a 60 year period (i.e. an applicant for quit claim letters patent);

"common and public highway" means a common and public highway as defined in section 261 of the Municipal Act, and includes a road allowance laid out by a Crown surveyor;

"quit claim letters patent" means letters patent issued by the Crown to quit its claim to public land, in recognition that 60 years adverse possession has occurred and the Crown's right to bring an action for the recovery of the land is barred under the Real Property Limitations Act.

2.0 INTRODUCTION

Under subsection 3 (1) of the Real Property Limitations Act, the Crown is barred from bringing an action against any person for the recovery of land, rents, or profits except within 60 years after the right to bring an action has first accrued. In effect, after 60 years adverse possession, all right, title and interest of the Crown to the occupied public land is extinguished.

The 60 year rule does not apply to certain exceptions which are identified in this policy.

Section 17 of the Public Lands Act provides that quit claim letters patent may issue to a person or to that person's predecessor in possession, in respect of public lands, where the Crown's right to bring an action against that person or that person's predecessor in possession for the recovery of the land is barred by subsection 3(1) of the Limitations Act. (Refer to Appendix "A" attached hereto).

3.0 PROGRAM DIRECTION

3.1 Application

This policy applies provincially to the review of applications for quit claim letters patent for public lands.

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3.2 Guiding Principles

Except as otherwise provided herein, all right, title, and interest of the Crown is extinguished following 60 years of continuous, open, adverse and quiet possession of public land by a person, and/or the person's predecessor(s) in possession. (Authority - subsection 3 (1), Real Property Limitations Act)

Adverse possession does not extinguish the Crown's interest in respect of any claim in respect of waste or vacant lands of the Crown, or a common and public highway, unless the right to the claim was acquired before June 13, 1922. (Authority - Section 16, Real Property Limitations Act).

The Ministry will initiate the issuance of quit claim letters patent for an administrative fee where a claim of adverse possession has been proven to extinguish the Crown's interest to public lands. (Authority - Section 17, PLA)

3.3 Goal

To provide for the impartial review of applications for quit claim letters patent and to facilitate the issuance of quit claim letters patent, where the Crown's right to recover land has been barred in accordance with the laws of Ontario; and, where the Crown's right to recover land is not barred, to ensure that appropriate action is taken to interrupt the limitation period.

3.4 Policy Objectives and Strategies

A) To treat clients fairly.

This will be achieved by:

- a) providing policy and procedure which facilitate the impartial review of applications for quit claim letters patent;
- b) providing all claimants who appear to meet the requirements for quit claim letters patent with "Requirements for Quit Claim Letters Patent" and "A Guide for the Preparation of Declarations in Support of Claims to Public Land" (attached to Procedure Directive PL 2.02.01 as Appendices B and C respectively);
- c) providing clients with justification for not accepting the information submitted as evidence of adverse possession over 60 years, where claims are not proven to the Ministry (e.g. information from the claimant, MNR records, Registry Office records, Assessment Office records, or physical evidence) does not support the validity of the claim); and
- d) providing a claimant the opportunity to submit additional evidence to support the claim where the claim has not been proven to the Ministry.

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- B) To preclude the Ministry from taking action to recover public lands, where the right to commence an action is barred by the Limitations Act.

This will be achieved by acknowledging claims where the Crown's right to commence an action for the recovery of lands is barred under the Limitations Act, by issuing quit claim letters patent at the prescribed administrative fee, and by checking and investigating incidents of adverse possession when conducting pre-disposition inspections.

- C) To maintain title integrity to public land.

All lands, subject to a formal application for quit claim will be inspected to support or contradict evidence of 60 years adverse possession.

Claims may be refused where the occupation is interrupted, where the occupation does not qualify as possession, or where the claim is in respect of waste or vacant lands. This might occur where:

- a) the occupation is an act of trespass or a use equally consistent with trespass (e.g. intermittent grazing of cattle, cutting of fuel wood), such occupations are not in themselves considered as possession (although fencing an area of public land together with the actual and continual grazing of cattle may qualify as possession);
- b) the occupation has occurred under lawful authority (e.g. land use permit, staked mining claim) and does not qualify as possession;
- c) the adverse possession has been interrupted by a signed acknowledgment from the claimant, or the claimant's predecessor(s) in possession, which indicates that the Crown owns the land; or
- d) the period of adverse possession has been interrupted by the receipt of revenue by the Crown for rents or profits (e.g. Crown dues or stumpage) in respect of the land claimed.

Any such refusal of a claim based upon the above criteria should be made in consultation with Legal Services Branch.

Legal Services Branch is responsible for determining what is waste and vacant land.

The submission of an application for quit claim letters patent, and the Ministry's review of that application does not interrupt the 60 year limitation period.

Action will be taken to interrupt the 60 year limitation period and resolve the claim, where the investigation of an application for quit claim letters patent indicates that the claim is deficient and the Crown's right to commence an action has not been barred.

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Action to resolve the claim may include authorization of the site (e.g. sale and patent) or removal of the unauthorized occupation.

- D) To issue quit claim letters patent where the Crown's right to bring an action for the recovery of land is barred by subsection 3 (1) of the Real Property Limitations Act.

The Ministry will initiate the issuance of quit claim letters patent, at the administrative fee prescribed in Policy Directive PL 6.02.01 where claims are proven.

Quit claim letters patent will only be issued:

- a) to claimants who have proven to the satisfaction of the Ministry that they have 60 years adverse possession of public land, and have thereby barred the Crown's right to commence an action for the recovery of the land; and
- b) consistent with the application of the Real Property Limitations Act (i.e. some road allowances and waste or vacant lands are exempt).

3.5 Eligible Applicants

Any person claiming to have 60 years adverse possession of public land through him/herself, or his/her predecessors in possession may apply for quit claim letters patent.

4.0 REFERENCES

4.1 Statutory References

Evidence Act, section 43
Real Property Limitations Act, section 3
Public Lands Act, sections 17 and 24

4.2 Case Law References

Hood v. LeBlanc (1904) 34 S.C.R. 627
Harris v. Mudie 7 A.R. 414
Sherron v. Pearson (1887) 14 S.C.R. 581
Reynolds v. Trivett (1904) 7 O.L.R. 623
McLeod v. McRae (1918) O.L.R. 34
McCouaghy v. Denmark (1880) 4 S.C.R. 609
A.G. of Canada v. Krause (1956) O.R. 675 (C.A.)
Carr v. Ferguson (1911) 54 N.S.R. 132

4.3 Directive Cross References

PL 6.02.01 Administrative Fees for Public Lands Transactions
PL 3.03.02 Unauthorized Occupations - Control and Removal

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APPENDIX A

Section 3 (1) of the Real Property Limitations Act is included for convenience only.

Real Property Limitations Act, Subsection 3 (1)

No entry, distress, or action shall be made or brought on behalf of Her Majesty against any person for the recovery of or respecting any land or rent, or of land or for or concerning any revenues, rents, issues or profits, but within sixty years next after the right to make such entry or distress or to bring such action has first accrued to Her Majesty.