

Subject <b>APPLICATION FOR CERTIFICATION FOR TITLE UNDER THE CERTIFICATION OF TITLES ACT</b>		Procedure <b>PL 4.03.02</b>	
Compiled by - Branch Lands and Waters	Section Land Management	Date Issued October 14, 2005	
Replaces Directive Title Same	Number LM 7.03.04	Dated February 8, 1980	Page 1 of 5

## 1.0 INTRODUCTION

In those areas of the province where the Land Titles Act does not apply, a person who wishes to have title to land certified in their name, may make an application to the Director of Titles, Ministry of Government Services (MGS) under the Certification of Titles Act. The process is similar to “First Registration under the Land Titles Act” and essentially the same end result is achieved except that, under the Certification of Titles Act, quality of titles is guaranteed only as it exists on the date of the certification.

An applicant for certification of titles is obliged to provide, amongst other things, a draft reference plan of the land in respect of which the application is made, completed by an Ontario Land Surveyor.

## 2.0 GOAL

To provide clear procedural direction to staff for applications for certification of title under the Certification of Titles Act.

## 3.0 PROCEDURES

When a Land Registrar receives an application for first registration under The Land Titles Act, he sends a Notice of such application to other landowners who may be affected by such registration. The Ministry of Natural Resources commonly receives such Notices, because a body of water (which might or might not be navigable) forms part of the land for which first registration is sought.

Although Land Registrars have been asked to send Notices directly to the appropriate Ministry of Natural Resources district offices, any Notices received by the Land Management Section will, in turn and without delay, be forwarded to the districts for action.

Such Notices will be processed as follows:

### **Responsibility**

### **Action**

District Manager

1. Checks plans and records to determine if any Crown land is included in the land to be registered.
2. If the Crown has no interest in the land to which the application refers, no further action is required.

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## **Responsibility**

District Manager

## **Action**

3. If the Crown has an interest in the land:
  - a) If necessary, asks land registrar, by memo sent by registered post, to extend the time for submission of objection.
  - b) Conducts whatever investigation is required to determine the nature and extent of Crown interest.
  - c) Prepares one original and two copies, a Notice of Objection (as per sample A in Appendix) to be signed by the District Manager.
  - d) Prepares one original and two copies, an affidavit (as per sample B in Appendix) to be signed by the Manager, Land Management Section in the presence of a Commissioner who should administer the oath and compete the jurat.
  - e) Forwards the completed original Notice and affidavit by registered post to the Land Registrar, sends a copy to the applicant or his solicitor and files a copy.
4. Upon receipt of a date for the hearing to determine the validity of the Crown's objection, requests counsel to present arguments on behalf of the Crown at the hearing.
5. Upon receipt of information from the Land Registrar, which shows that Crown interests no longer form part of the land to be registered, withdraws objection by memo sent by registered post to the Land Registrar, and sends a copy of the memo to the applicant or his solicitor and files a copy of the memo.

### **3.1 Special Procedures**

Every owner, mortgagee, or chargee of adjoining land is entitled to receive a notice of the application unless he consents to the application and waives his right to a notice by signing a "Consent and Waiver of Notice" (form 6, Reg. 595/82) and a print of the draft reference plan. If an adjoining owner, mortgagee, or chargee declines signing a consent and waiver, he will be served with a Notice of Application, by registered mail or personal service.

An adjoining owner, mortgagee, or chargee who has a claim adverse to or inconsistent with an application may file a statement of claim verified by affidavit, with the Director of Titles may hold a hearing or he may refer the matter to the courts.

Where adjoining land is Crown land under the jurisdiction of MNR, and the applicant chooses to proceed by way of consent and waiver, MNR will receive a Consent and Waiver Notice and print of the draft reference plan for signature on behalf of the Crown.

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MGS instruct applicants to send these documents to the appropriate MNR District Manager, who after reviewing them, will send them to the Land Management Section with a recommendation that the Manager, Land Management Section:

- a) sign the Consent and Waiver and the draft reference plan because the proposed certification of title will not be prejudicial to the Crown.\*

*OR*

- b) not sign the Consent and Waiver and the draft reference plan because the Crown has an interest that would be prejudiced by certification of title.

If (a) above, the Manager, Land Management Section, will sign the documents and return them to the Director of Titles.

If (b) above, the Manager, Land Management Section, will return the documents, unsigned, to the Director of Titles and, upon being served with the Notice of Application, will refer the matter to the Legal Services Branch for filing of the statement of claim and such other follow-up action as may be necessary or advisable.

## **4.0 REFERENCES**

### **4.1 Statutory References**

- Regulation 595/82, form 6 “Consent and Waiver of Notice”
- Land Titles Act
- Certification of Titles Act

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\* Certification of title does not expunge any reservations, exceptions, etc. contained in the original grant from the Crown. Hence a certification will generally not be prejudicial to the Crown unless any part of the land shown on the reference plan is ungranted.

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**APPENDIX**

**Sample A**

99161 v. 2

**THE LAND TITLES ACT**

IN THE MATTER OF part of Lot 14 in Concession II, in the Township of Tiny in the County of Simcoe, designated as parts 1, 2, 3 and 4 on a plan and field notes of survey dated the 7<sup>th</sup> day of April, 2005, signed by *(insert name)*, Ontario Land Surveyor, and filed un the Office of the Director of Titles, Legal and Survey Standards Branch, of the Property Rights Division of the Ministry of Government Services on the 24<sup>th</sup> day of June, 2005 under File No. H-4144;

AND IN THE MATTER OF the application of *(insert names)* as joint tenants (Owners) to be registered under The Land Titles Act, R.S.O 2000, c. 234 as owners in fee simple with absolute title to the said part of the said Lot 14.

TO: The Land Registrar at *(insert location)*

AND: *(insert names)*, as joint tenants (Owners)

AND their Solicitors: *(insert name of firm)*  
Barristers & Solicitors,  
*(insert address)*

HER MAJESTY THE QUEEN in right of Ontario, as represented herein by the  
Minster of Natural Resources, the owner of the bed of the Wye River;

HEREBY GIVES NOTICE that the area designated as parts 1, 2 and 3 on the said  
plan and field notes of survey dated the 7<sup>th</sup> day of April, 2005 encroaches upon the bed of the  
Wye River.

DATED at Toronto this 10<sup>th</sup> day of August, 2005.

\_\_\_\_\_  
*(insert name)*  
Solicitor for Her Majesty the Queen in the right of  
Ontario, as represented by the Minister of Natural  
Resources

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**Sample B**

**I, (*insert name of Manager, Land Management Section*), of the City of Peterborough in the County of Peterborough, make oath and say as follows:**

1. I am the Manager of the Land Management Section of the Lands and Waters Branch, employed by the Ministry of Natural Resources for the Province of Ontario.
2. I have examined the plan and field notes of survey of part of the south half of Lot 14 Concession II, in the Township of Tiny in the County of Simcoe, designated as parts 1, 2, 3 and 4 on a plan and field notes of survey dated the 7<sup>th</sup> day of April, 2005 signed by (*insert name*), Ontario Land Surveyor, and in my examination of the said plan and field notes survey, I have found that it shows the westerly boundary of those parts designated as 1, 2 and 3 thereon to be the centre line of the Wye River.
3. I am informed and verily believe the Wye River is a navigable waterway where it flows though the said south half of Lot 14 Concession II, in the Township of Tiny in the County of Simcoe.
4. I am informed and verily believe that the bed of the Wye Rivers so included as part of parts 1, 2 and 3 on the said plans and field notes of survey is owned by Her Majesty the Queen in right of Ontario.

SWORN before me at the  
City of Peterborough, in the County of Peterborough,  
this day of August 19, 2005

\_\_\_\_\_  
(*insert name*)

\_\_\_\_\_  
Commissioner