

Subject ADMINISTRATIVE FEES FOR PUBLIC LAND TRANSACTIONS		Policy PL 6.02.01	
Compiled by - Branch Lands & Waters	Section Land Management	Date Issued October 24, 2003	
Replaces Directive Title Same	Number PL 6.02.01	Dated March 1, 2002	Page 1 of 9

1.0 INTRODUCTION

This policy brings together and summarizes administrative fees for various pre-disposition, disposition and post-disposition public lands transactions

2.0 PROGRAM DIRECTION

2.1 Application

This directive applies provincially to the determination of fees for various public lands administrative transactions.

2.2 Guiding Principle

Administrative fees are used to recover the Ministry's administrative costs of processing various transactions.

2.3 Policy Objectives and Strategies

- A) To recover the cost of providing pre-disposition, disposition, and post-disposition services to the beneficiaries of those services.

In accordance with Management Board Secretariat (MBS) Corporate Management Directive entitled "Non-Tax Revenue", the cost of providing services to the public should be borne by those who benefit from the service and charges should reflect program costs.

The charges identified in sections 3.1 to 3.5 are to be used to recover the Ministry's administrative costs, in accordance with the MBS policy.

- B) To obtain a fair price for the removal of conditions in letters patent for land that was sold for less than market value.

The administrative fee for the release of a land use condition is prescribed in Section 3.3.3.

- C) To ensure that the federal Goods and Services Tax (GST) is collected where applicable.

Refer to Policy Directive PL 2.07.01 GST Application to Public Lands Transactions for the treatment of GST on administrative fees.

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3.0 ADMINISTRATIVE FEES

Please refer to the following sections to determine applicable administrative fees:

- 3.1 Pre-Disposition Fees (Site Descriptions)
- 3.2 Disposition Fees
- 3.3 Post-Disposition Service Fees
 - 3.3.1 Transaction Fees
 - 3.3.2 Voidance Certificates
 - 3.3.3 Releasing Orders
 - 3.3.3.1 Release of Land Use Condition "It is a condition of these letters patent that the lands be used for _____ purposes only"
 - 3.3.3.2 Release of Land Use Restriction in Habendum Clause
 - 3.3.3.3 Release of Reservations Under O. Reg. 110/01
- 3.4 Building Condition - Time Extension Fees
- 3.5 Document Fees

3.1 Pre-Disposition Fees

Site Descriptions

To recover the administrative and technical costs of preparing descriptions with no plan prepared, by Crown Land Surveys, from existing survey information, the fee of \$100 is to be charged. See Explanatory Note #3.

NOTE: The applicable fee is to be collected before asking Crown Land Surveys to prepare the required description.

3.2 Disposition Fees

Where a policy dictates (e.g. PL 6.01.02 Disposition of Crown Land at Less Than Appraised Market Value), or approval is given to dispose of public lands for an administrative fee rather than at market value, the fee to be charged must be one that will recover the costs incurred by this Ministry to do the transaction. The fees that will apply are as follows:

3.3 Disposition Fees (Cont'd)

TRANSACTION	ADMIN. FEE
1. Transfer of administration and control by Minister's Order	\$1,000
2. Quit Claim Letters Patent	\$1,000
3. Sale and Patent – sales of shoreline reserves, road allowances, and small strips of Crown land where market value is not warranted. (See Explanatory Note 1)	\$1,000
4. Lease	\$1,000, one time fee
5. Licence of Occupation	\$1,000 one time fee
6. Easement (see Grant of Easement Policy PL 4.11.04)	\$1,000, one time fee
7. Beach Management Agreement	\$1,000 one time fee plus 10% of rents collected within the agreement area

NOTE: In addition to the above fees, an applicant is responsible for the cost of any required survey, plan or description.

3.3 Post -Disposition Fees

3.3.1 Transaction Fees

Where a given tenure document or an extension thereof, does not specify in its' own terms and conditions what the amount of a transaction fee shall be, the following will apply:

TRANSACTION	FEE
1. Assignment of a sale	\$200
2. Consent to transfer, assign, renew, sub-lease, mortgage, charge, debenture, or other financial dealings with a licence of occupation, easement, Crown lease, and Summer Resort Lease (excluding mining leases)	\$200 per transaction
3. Amending agreement, requested by a lessee or the holder of an easement, including partial surrender of a Water Power Lease Agreement.	\$665

3.3.2 Voidance Certificates

CERTIFICATE	FEE
1 For a certificate issued under section 61 (4) of the Act as to the voidance of the mines and minerals reservation in some letters patent	\$135
2 For a certificate issued under subsection 69 (1) of the Act as to a condition, provision or reservation that is void by a section found in the current Public Lands Act	\$135

3.3.3 Releasing Orders

An administrative fee shall be charged for each reservation that is to be released.

AUTHORITY FOR ORDER	NATURE OF ORDER	FEE
s. 19, PLA	Fee for an order releasing a land use condition under section 19, PLA NOTE: Does not apply to a release of land use restriction in habendum of letters patent. See Section 3.3.3.2	Market value minus amount paid, discounted by formula Not less than \$665 See 3.3.3.1
s. 28 (g) Interpretations Act	Fee for an Order in Council authorizing the release	Market value minus amount paid, discounted by formula in section 3.3.3.1. Not less than \$1,000 See 3.3.3.2 NOTE: This fee is higher than for the release of condition under s. 19 to reflect added cost obtaining an Order in Council and issuing supplementary letters patent.
ss 66(1) or 66(2), PLA	Roads or access to shore (includes right-of-way reservation)	\$665

AUTHORITY FOR ORDER	NATURE OF ORDER	FEE
ss 68.1 (2), PLA O. Reg. 110/01 - Class 1	Trees (any or all species)	\$665 + Cruise and compilation costs + value of timber See Policy and Procedure Directive PL 4.03.01 for details of other fees. See also Procedure Directive FOR 5.05.45 Valuation Of Trees Reserved To The Crown On Patented Lands For Release Of Tree Reservations (Interim)
ss 68.1 (2), PLA O. Reg. 110/01 - Class 2	Sand and gravel	\$665 + resource costs (currently being developed) See Policy and Procedure Directive PL 4.03.01 for details of other fees
ss 68.1 (2), PLA O. Reg. 110/01 - Class 3-7	Others <ul style="list-style-type: none"> • Fishery clause • access • surface rights in roads • Percent of surface rights in roads • railway R-O-W not constructed 	\$665

3.3.3.1 Release of Land Use Condition "It is a condition of these letters patent that the lands be used for purposes only"

The determination of the value to be placed upon the release takes into consideration the current market value of the property, the length of time the land has been patented, and the monies already paid.

Section 119 (9) of the Land Titles Act prescribes that:

"Where a condition, restriction or covenant has been registered as annexed to or running with the land and no period or date was fixed for its expiry, the condition, restriction or covenant is deemed to have expired forty years after the condition, restriction or covenant was registered, and may be deleted from the register by the land registrar".

While it is recognized that the section does not apply to conditions placed in Crown grants, we feel it is reasonable to use the forty year time period in the development of a sliding scale for the determination of the price for release of those conditions. Therefore if the property was patented more than forty years ago the fee for releasing the condition will be the administrative fee as set out in section 3.3.3. (s. 19) of this directive.

The release price is determined by a devaluation of the percentage of the current market value to be reduced at the rate of 2 1/2% per year from the date of patent. If the disposition was originally made for an administrative fee, the price paid initially is to be deducted from the release price determined. Should the value resulting from this calculation be less than the current administrative fee, the latter should be collected (see section 3.3.3 - s. 19).

Example:	Year of patent:	1972
	Year of release:	1997
	Current Market Value:	\$10,000.00
	Initial fee (in 1966):	\$ 100.00

$$\begin{aligned}
 \text{Release Price} &= \{100\% - [(1997 - 1972) \times 2 \frac{1}{2}\%]\} \times \$10,000 - \$100 \\
 &= [(100\% - 62.5\%) \times \$10,000] - \$100 \\
 &= (37.5\% \times \$10,000) - \$100 \\
 &= \$3750 - \$100 \\
 &= \$3650
 \end{aligned}$$

In certain dispositions made for agricultural purposes, the grantee was required to pay a percentage of market value rather than an administrative fee. In such situations, the determination of the release price should reflect this fact. For example, an individual who paid 50% of market value in the first instance would only be assessed the remaining 50% of the sliding scale value of the current market value (i.e. release in year 25 would be at 50% of 37.5% = 18.75% market value (\$1875 in the example given)). If the original grant was made at full market value, the release is provided for the administrative fee set out in section 3.3.3. (s. 19) of this directive.

3.3.3.2 Release of a Land Use Restriction in a Habendum Clause

A "habendum clause" (also known as the to have and hold clause) as "the part of a deed (or letters patent) that defines the extent of the interest being granted and any conditions affecting the grant."¹ The introductory words to the clause are ordinarily *to have and to hold*.

Some letters patent contain a clause in the habendum of a document that the land is to be used only for specified purposes (e.g. TO HAVE and TO HOLD unto the said [grantee's name] for the purposes of _____). This practice often occurred in letters patent issued prior to 1959 when the Public Lands Act was amended² to provide for the insertion of a land use condition through section 18, and the release of that land use condition under section 19.

¹ Black's Law Dictionary, 7th Edition, West Group, p. 716

² The Public Lands Amendment Act, 1959; c. 81, S.O. 1959

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It is important to note the distinction between a land use condition that can be released under section 19 and a land use condition in the habendum which is not eligible for release under s. 19, PLA. The release of a habendum clause condition must be authorized by Order in Council and the issuance of supplementary letters patent.

The fee to release this clause by Order in Council and supplementary letters patent is the fee prescribed in the table in section 3.3.3. of this directive [s. 28 (g) Interpretations Act], if the letters patent were issued over 40 years ago. If, at the time of application, the letters patent were less than 40 years old, the formula outlined in section 3.3.3.1 should be followed, except that the minimum fee is as listed for s. 28 (g) of the Interpretations Act.

3.3.3.3 Release of Reservations Under O. Reg. 110/01

O. Reg. 110/01 “Release of Reservations in Letters Patent” authorizes the following classes of reservations in accordance with subsection 68.1 (2) of the Public Lands Act

- 1) Reservation of trees of any species.
- 2) Reservation of sand and gravel.
- 3) Reservation conferring the right to use, for fishery purposes, the banks of a body of water, not exceeding 20.12 metres in depth from the water’s edge.
- 4) Reservation conferring the right of access and free passage along the shores of rivers, streams and lakes.
- 5) Reservation of the surface rights in any public or colonization road crossing the land granted.
- 6) Reservation of a percentage of surface rights for road purposes.
- 7) Reservation of a right of way for a railway line where the line is not constructed.

Where policy calls for the use of an administrative fee for the release of a reservation in Ontario Regulation 110/01, the administrative fee is to be \$665 (plus other applicable costs). See also Policy and Procedure Directive PL 4.03.01 Release and Voidance of Reservations and Conditions in Land Grants.

3.4 **Building Condition - Time Extension Fees**

The fees for an extension of time to the building condition clause for the performance of a term or condition of a sale or lease of public lands for a period of one year is \$65.

3.5 Document Fees

The following fees will apply for the production of copies or certified copies of documents produced by the Crown Land Registry.

DOCUMENT	PHOTOCOPY COST	CERTIFIED COPY COST
Licence of Occupation Water Lot Lease Crown Easement Water Power Lease Agmt's. Patents Minister Orders (see Explanatory Note 2)	\$32.00 per document (to a maximum of 3 pages + \$4.00 per additional page), plus applicable shipping and handling.	\$50.00 per document (to a maximum of 3 pages + \$4.00 per additional page), plus applicable shipping and handling.

4.0 EXPLANATORY NOTES

1. The former fee of \$750.00 will apply to active applications where there has been a formal commitment to sell at \$750.00 made prior to March 1, 2002. Active applications are those where the client has not unduly delayed their responsibilities in the process. If the client has not pursued their application for a period of one year, the new fee will be applied when their application is re-activated.
2. Currently water lot leases and Crown easements are registered and copies should be obtained from the Land Registry Office. However before 1964 these documents may not have been registered in which case a copy can be obtained from Crown Land Registry.
3. The service of preparing a one-part plan and description, and /or a description and sketch of more than one part has been discontinued. In the past 10 years there have been few requests for these plans or sketched to be prepared by the CLS office. If required, the client should be instructed to obtain the plan or sketches from a private Ontario Land Surveyor.

The fees will be reviewed on an annual basis by the Land Management Section and adjusted periodically in concert with change in the Consumer Price Index, subject to the approval of the Lands and Waters Director.

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5.0 REFERENCES

5.1 Legislative References

- Public Lands Act, Subsections 61 (4), 66 (1) & (2), and 69 (1)
- Land Titles Act, Subsection 119 (9)

5.2 Regulatory References

- O. Reg. 972, section 1
- O. Reg. 110/01

5.3 Directive Cross References

- Management Board Secretariat Guideline:
(Non-Tax Revenue and Program Costing: A Managers Guide)
- PL 6.01.02 (POL) Disposition of Crown Land at Less than Appraised Market Value
- PL 2.07.01 (POL) GST Application to Public Lands Transactions
- PL 4.03.01 (POL) Release and Voidance of Reservations and Land Use Conditions in Letters Patent
- PL 4.11.01 (POL) Easements (Grants of)