



DEEDS AND DIALOGUE

Issue Number Two ♦♦♦ October 2000

Our New Departmental Name - Service Nova Scotia and

Municipal Relations

On October 2, 2000, the former provincial Department of Housing and Municipal Affairs merged with Business and Consumer Services to form **Service Nova Scotia and Municipal Relations**. Together, the two former departments handle more than 90% of customer interactions with the provincial government (outside of education and health care). The new department is committed to providing quality service to people, business and municipalities, with access in all 18 counties. Service Nova Scotia is also responsible for leading all E-Commerce initiatives in government. As part of this new service organization, the **Registry 2000 Project**, Land Information Services and the Registries of Deeds are a natural fit.

Consultation Update

Although the official consultation period ended on April 30, team members continued to meet with stakeholders who wish to learn more about the Registry 2000 project and want to offer input on the development of the new land registration system.

- Over the summer and continuing this fall, team members have been meeting with title searchers across Nova Scotia. Valuable feedback was received from this group who has daily contact with the registries and sees the system from the inside.
- In October a presentation will be made to municipal tax collectors at their annual conference. It is important that municipal leaders and key staff understand the changes and benefits which Registry 2000 will bring.

- In November, Registrars of Deeds will be brought together to learn more about the Registry 2000 project. Presentations will focus on the cost information which has been gathered, and on the process review which was undertaken by the Registry team. Next steps in the project will also be reviewed.

We continue to receive submissions and comments and are happy to hear from anyone who wishes to comment on the changes proposed by the Discussion Paper and draft Act.

Resolutions *Resolutions *Resolutions

To date, we have received nine resolutions in support of the Registry 2000 vision. These resolutions were passed by various associations, agencies, and interest groups and are posted on our web site at <http://www.gov.ns.ca/snsmr> . (Just look for Property Registration >>Registry 2000.)

Registry of Deeds and Property Transaction Costs Analyzed



As part of the preparatory work for building the business case for registry reform, the Registry 2000 Team has completed an analysis of the costs associated with property transactions, from the purchase or sale of a property through to the registration and filing of documents and parcel indexing at the Registry of Deeds. This cost analysis had two specific phases: a detailed review of the cost of running the current Registry of Deeds and Property Mapping operations, and a consumer survey of the costs associated with real property transactions.

Using the Halifax and Pictou registries as models, Phase One of the cost analysis examined factors such as operating expenditures, document processing, and records management and storage. This analysis showed that the cost of maintaining the registries province-wide is greater than the revenues generated through filing and registration fees. Looking at the total costs involved in running the registry and mapping operations across Nova Scotia, the average cost per document filed was \$73.83. Paper storage and vault maintenance account for four to five dollars of the cost per document filed, or about \$500,000 annually.

Phase Two of the cost analysis had broader scope and was used to identify all costs paid by the consumer in a property transaction. Working with Corporate Research Associates, focus groups were held in Halifax and Kentville to bring together individuals who had recently bought or sold a property. The focus groups gathered the personal insights, issues and concerns of the participants regarding the property transaction process. In addition to this qualitative study, a telephone survey was completed of about 500 Nova Scotians who had purchased or sold property in the last 12 months. The responses to the survey were extremely positive and have provided the team with a wealth of statistically valid data. Responses are in the process of being tabulated and a summary of the survey will be published in our next newsletter.

New Brunswick Implements New Land Titles System

A new land titles system for New Brunswick, similar to the one proposed for Nova Scotia, was rolled-out on September 25, 2000. We have received word that the first applications have been successfully submitted by lawyers and processed by staff. Extensive user training for both staff and clients had taken place prior to implementation, facilitating a seamless transition to the new process.

The New Brunswick system allows users to file and query title information electronically, provides links to electronic maps, and allows for viewing of scanned images of documents, and it does all this over the Internet. As is proposed in Nova Scotia, New Brunswick has entered into an agreement with their Barristers' Society to have lawyers certify title after a final historic title search. Properties are moved into the system as they are sold or mortgaged. Conversion of all NB properties is expected to take 15 years.

Nova Scotia can learn a lot from the New Brunswick experience -there are striking similarities between the traditional Nova Scotia and New Brunswick Registries and the new legislative structure which is proposed is similar. Over the last six months our Registry Reform Team has traveled to New Brunswick to learn more about their reform process.

If you are interested in keeping current with the latest developments in New Brunswick you can check out their website at <http://www.gov.nb.ca/snb> and search for "Land Titles".

FREQUENTLY ASKED QUESTIONS

Q. Under the proposed land titles system, would the public have access to the information contained in the new land registry?

A. Yes. Full public access would continue, as with the Registry of Deeds system. Eventually, full remote electronic search capabilities would be available, enabling access to records from anywhere in the Province, including from home via internet.

Q. How would a parcel be registered in the new Land Registry?

A. It is proposed that there be an application, accompanied by a solicitor's certificate of title (certifying to the Registrar General), an abstract of title and an affidavit of verification (along with the prescribed fee).

Q. Under the proposed system would registration be mandatory for all properties in Nova Scotia?

A. Conversion under the *Land Registration Act* would not be mandatory unless a parcel was transferred for value, mortgaged or subdivided into three or more lots. It is proposed that as properties are sold, the buyers would be required to bring the land into the new system. Parcel owners would also be encouraged to convert their lands to the new system voluntarily in order to take advantage of the benefits the system offers to landowners (in the form of guaranteed fee simple ownership and therefore certainty of title on resale). After implementation of the new system province-wide, the government would develop a strategy to migrate the remaining parcels to the new system.

Q. What is guaranteed under the land registration system?

A. The system would guarantee the fee simple ownership of the land to the person named in the parcel register. Under the current Registry of Deeds system, the owner of the fee simple can only be determined through a review of the historic series of documents on file at the Registry of Deeds. The owner of the fee simple would have the right to pass on the property by act of transfer or on death by will or intestacy.

It is important to note that only the fee simple ownership is guaranteed. Notice of all other interests in the property (such as mortgages, easements, rights-of-way, leases, etc.) appear in the parcel register for the property but their validity and effect must be determined by the user of the system.

HOW CAN WE REACH YOU?

Contact us by phone (424-5619), fax (424-5872) or e-mail (Reg-2000@gov.ns.ca) to let us know how you want us to reach you, or return this form to us by mail at the Land Records Reform Office, 1601 Lower Water Street, Halifax, N.S. B3J 2M4.

Please remove my name from your mailing list. My name is _____

Please send "Deeds and Dialogue" to me at my e-mail address: _____

If we don't hear from you, we'll continue to send the Registry 2000 newsletter to you.

Judgments and Adverse Possession - Feedback Wanted

We are in the process of finalizing the amendments to the draft *Land Registration Act* and would like to hear any final comments on two contentious issues which were raised during the consultation period - judgments and adverse possession.

Judgments are currently indexed by the debtor's name and remain valid for 20 years. They attach to any real property owned by the debtor in the Registration District, either when the judgment is registered or at any point in the 20-year period following registration.

There are several problems with the current system:

1. People with similar names to those in the judgment register are frequently called upon to record Statutory Declarations swearing they are not the judgment debtor. This is expensive, time-consuming and frustrating for people who have been caught in the similar names trap.
2. A judgment can easily be missed during a search, if the names do not appear to be one in the same.
3. The use of a judgment register in a parcel-based system defeats the goal of a transparent system in which all interests in the land are set out in the parcel register.

We have heard representations on both sides of the judgments issue. Some want the judgment system left as it is because it provides protection for the judgment creditor. Others want judgments to be recorded only in a parcel register, for the sake of certainty. The Registry 2000 Team is studying the judgments issue and welcomes your comments.

Adverse possession is another issue about which there is much debate. Under the proposed *Land Registration Act* individuals would continue to be able to claim title to another person's land by actual, adverse, open, notorious, and continuous possession for a specified period of years.

The registered owner to the parcel or portion of a parcel of land could be defeated by the adverse possession.

Land Titles systems usually limit or prohibit adverse possession as these claims also defeat the principles of certainty and transparency of ownership. The Registry 2000 Team has received feedback on both ends of the spectrum - from those who want to preserve adverse possession claims to those who want it limited, outlawed, or allowed only if the possessory claims are long-standing. Your comments regarding the issue of adverse possession are also solicited.

LINES OF COMMUNICATION



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