



DEEDS AND DIALOGUE

ISSUE NUMBER FOUR

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Land Registration Act Update

- ✓ Introduced in the House of Assembly on March 23, 2001 as Bill No. 1
- ✓ Passed Second Reading on March 27, 2001
- ✓ Passed Law Amendments on April 17, 2001
- ✓ Passed Committee of the Whole House on May 28
- ✓ Passed Third Reading on May 29, 2001
- Royal Assent
- Proclamation

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The Land Registration Act: Some Changes Since the Discussion Paper

On March 23, 2001 the *Land Registration Act* was introduced in the House of Assembly as Bill No. 1. This Bill was the product of extensive stakeholder consultations which were held throughout 2000. Stakeholders provided feedback on most of the 115 sections of the draft Act. As a result, Bill No. 1 is the outcome of a true consultative effort. It contains some important improvements over the initial draft.

Application for registration [s.18]

The Discussion Paper, released in January 2000, only required a lawyer's certificate on initial registration, but not on subsequent conveyances. The problem raised by this approach was obvious: registry staff would be required to interpret the effect of transfer documents, rather than placing the onus on the lawyer preparing the document. Under Bill No. 1, a lawyer's certificate would be needed to ensure the ongoing integrity of the ownership guarantee. Lawyers would be responsible for errors or omissions on their certificates for ten years, as with their initial certificates to the system.

The Discussion Paper would have allowed parts of a parcel or former parcel to remain in the old

Registry of Deeds system on subdivision or consolidation. This was not an intended consequence, and the *draft Land Registration Act* was revised so as to require all parent parcels to come into the new system at the same time that the infants do.

PID references & plan references [s.19]

The draft *Land Registration Act* was revised so as to allow references to a parcel's PID or plan to stand in the place of the long-form legal description in certain circumstances. This would allow lawyers to move away from the use of full metes and bounds descriptions to streamline documentation and reducing the chance of errors in each transcription of the long-form description.

Boundaries [s.21]

Consultations showed that confusion exists over the purpose and nature of the province's mapping. Disclaimers notwithstanding, some stakeholders still regard the mapping in the NSPRD On-Line as being to surveying accuracy. In reality, the mapping is a useful tool but is not intended to be a survey plan. Mappers base their graphics on documents and plans filed at the Registry of Deeds and on information received from landowners.

The quality of our provincial mapping depends in large measure upon the source material used to develop the parcel graphics. This mapping is being refined as more information is made available. To clarify this point, Bill No. 1 states that provincial mapping is not conclusive as to the location, boundaries or extent of a parcel. A discussion of mapping and its purpose will be part of the stakeholder education efforts as the new system is rolled out.

Applying for new registration [s.37]

Under the original draft *Land Registration Act* each parcel had to be located and uniquely identified before it could be registered. This raised the potential for a serious backlog on registration. To overcome this problem, Bill No. 1 would require registrants to apply for 'PID Pre-Approval' prior to registration of the parcel. For the vast majority of parcels, this would be a straightforward exercise whereby a property mapper would confirm the match between the parcel's legal description and the parcel graphics as shown on the provincial mapping. Adjustments would be made to the mapping as required. In those cases where locating the parcel with reasonable accuracy is more difficult, delays in registration would be avoided through the PID Pre-Approval process.

Mandatory conversion [s.46]

Under the draft Act released in January 2000, subdivisions of three or more lots triggered conversion, whatever their purpose. In Bill No. 1, subdivisions for the purpose of gifting parcels to family members (however many lots are created) would be exempted.

Judgments [s.65-s.69]

After receiving many comments on how judgments should be dealt with, and commissioning an Issue Paper, the judgments provisions in the Discussion Paper were changed. The draft legislation called for a recording period of five years (with one five-year renewal) for judgments. The judgments themselves were to be recorded either directly in the parcel register or a names-based judgments roll.

The consultations showed that there was virtually no support for eliminating the familiar names-based roll. The ability to encumber after-acquired real property was also widely supported.

Given the support for the continuation of the names-based system, the benefit of having parcel-based judgments at all was questionable. In fact, by having both parcel and names-based judgments, uncertainty as to the value of each could arise. As well, the mechanisms proposed for notification and removal of judgments from the parcel register would have created an administrative and financial burden on the system and its users. For these reasons, Bill No. 1 would eliminate the notion of parcel-based judgments.

The "five+five" recording period also received little support. Most stakeholders wanted to retain a longer recording period. As introduced, the Bill would maintain the maximum recording period of 20 years, with an initial recording period of five years, plus three renewals of five years each.

Adverse possession and prescription

The Discussion Paper called for no change in the current law of adverse possession. During the consultation period, comments strongly in support of the status quo were matched by calls for restricting or eliminating adverse possession entirely, as is the case in many land titles jurisdictions. Because of this divergence of views, an issue paper was prepared to set out the policy options.

Bill No. 1 would limit, rather than eliminate, adverse possession. The Bill would give people with accrued possessory rights a period of ten years after the affected parcel is registered to crystallize their claim against the registered owner. Adjoiners would still be able to obtain title by virtue of adverse possession to not more than 20% of their neighbour's registered parcel. This would allow for the most frequent type of adverse possession, the boundary line encroachment.

Moving Forward with the Registry 2000 Technology Search

During Phase One and continuing into Phase Two, much work has been done to identify the technology requirements for the Registry 2000 Project. A draft Request for Proposals (RFP) has now been prepared and detailed system requirements are documented. On May 14, 2001 a draft of the RFP was provided to vendors for their feedback. The final RFP will be issued on June 13, 2001, with responses due in early July.

The RFP is for a technology partner to help the team select and acquire the technology needed to implement the Registry 2000 vision and to replace the legacy systems currently being used in the Registries of Deeds. A Canada-wide search helped narrow the options being considered to the land registry systems currently in place in Ontario Saskatchewan, and New Brunswick.

The Registry 2000 team, with the assistance of the technology partner, will closely analyze these systems to determine how well they meet the needs of the Nova Scotia land titles and traditional registry environment. As part of this analysis, the list of systems being reviewed may be expanded to include systems in place elsewhere in Canada.

This analysis will be completed by the early fall, with the anticipation that the base technology solution will be acquired by October 2001. The vendor and the Registry 2000 team will then have approximately one year to modify the base system to meet the requirements of the Nova Scotia property registration process. Alpha Site roll-out is still targeted for Fall 2002.

SERVICE NOVA SCOTIA NEWS

The evolution of Service Nova Scotia and Municipal Relations continues; a revamped divisional structure was put into place on May 1, 2001. The **Registry 2000 Project** is now part of the **Registry and Information Management Services Division**. Nancy Vanstone, the Registry 2000 project sponsor, is the Division's Executive Director. The Division is comprised of four operating sections and two special project teams:

- ☐ **Property Registration** (Registries of Deeds, Land Information Centres, Personal Property)
- ☐ **Business & Consumer Registration** (Licensing & Processing, Vital Statistics, Business Registry)
- ☐ **Geographic Information Services** (Geographic policy, Geomatics Centre, GeoNOVA)
- ☐ **Information Management** (management of corporate database & business applications)
- ☐ **NS Business Registry Project**
- ☐ **Registry 2000 Project**

Registry and Information Management Services will be taking a leadership role in the application of electronic technology to support programs both within Service Nova Scotia and Municipal Relations as well as for government as a whole. The Registry 2000 Project is a key part of this initiative to provide streamlined effective service.

WE'VE REACHED SOME MILESTONES

- ✓ *Departmental consultation completed* January, 2001
- ✓ *Issue papers completed* January 2001
- ✓ *Revisions to proposed Land Registration Act completed* March 2001
- ✓ *LRA (Bill No. 1) passed third reading in the House of Assembly* May 2001

Funding Registry 2000 Changes - Proposed Registry Fee Increases

The cost of recording documents at the Registry of Deeds has remained unchanged for more than a decade, despite increases in associated costs. The higher costs of doing business, coupled with the investments that will be part of Registry 2000, will translate into increased registry fees by the end of this summer.

In his spring budget speech, Finance Minister Neil LeBlanc said registry fees will be increasing, following a cost recovery model. Minister LeBlanc noted that fees could rise to \$70. As directed by the Auditor General, the cost of providing the service will be used as a guide in setting fees. The Fees Working Group, which includes stakeholder representatives, will also compare our registry fees to those charged for similar services by other governments in Canada.

In Phase One of the Registry 2000, a detailed cost analysis of registry operations was undertaken. The Registry 2000 team examined the current cost of registering documents, the overall costs of paper storage, and detailed the time required for specific steps in the registration process. This process put the average province-wide cost of registering a document at \$73.83. When the additional \$15 million investment to modernize the existing Registry of Deeds over seven years is factored in, it

is clear that a \$70 recording fee would still be significantly less than the cost of the service.

Timing of Registry Fee Changes

Any changes to fees will apply to all documents filed at the Registry, whether in the new system or in the old system. Registry system users will receive a minimum of one month's notice of any fee increase. For fees related to releases of mortgages, the implementation date for the fee change may be held in abeyance for a longer period to ensure that documents can be processed at the appropriate fee. It is anticipated that the new fees will not be implemented until August 2001.

Registry fees make up only four per cent of the total cost of a property transaction. With the reduced need for historic title searches, the overall cost of property transactions should be lower as properties migrate to the new system.

WHAT'S NEXT

- ☐ Issue Request for Proposals (RFP) to identify technology solution June 2001
- ☐ Select Alpha Site August 2001
- ☐ Implement \$70 Registry recording fee August 2001
- ☐ Acquire new base technology October 2001
- ☐ Enhance and modify system Winter/Spring 2002
- ☐ Prepare Alpha Site & train users and staff Spring/Summer 2002
- ☐ Implement Alpha Site Fall 2002
- ☐ Begin Province-wide roll-out Spring 2003

Overheard at the Water Cooler . . .

Several Registry of Deeds offices are offering expanded front counter service.

Ten Registries (soon to be eleven) are home to an electronic Kiosk, providing forms and information about many of the services provided by our Department, including Vital Statistics, Registry of Joint Stock Companies, Debtors Assistance, and more. These kiosks also provide direct phone access, enabling immediate issuance of items such as driver's permits to those using a credit card, as well as answering questions quickly. Kiosks can be found at Registry of Deeds offices in Guysborough, Shelburne, Liverpool, Windsor, Weymouth, Port Hood, Lawrencetown, Antigonish, Baddeck, and Pictou. Arichat will follow soon.

In addition to the Kiosks, three Registries currently offer front-counter Registry of Motor Vehicle services – Guysborough, Shelburne and Liverpool, with Windsor and Arichat to follow after facility issues have been resolved. Driver's licenses and motor vehicle registrations are issued on site by Registry of Motor Vehicle staff. Check with the Registry of Deeds for dates and times of RMV service, as it is currently offered two days a week at these locations.

Major changes are happening to Land Registration systems all across the country.

- **Newfoundland** will shortly be introducing an electronic Judgement Registry which will allow auto-attachment in both the Land and Personal Property Registries.
- **New Brunswick** completed incremental implementation of their Land Titles System in March. Governed by new Land Titles legislation, and operating under the electronic PLANET system, New Brunswick is currently converting its traditional Registry parcels to the new system using triggers similar to those proposed in Nova Scotia.
- **Saskatchewan** is awaiting proclamation of new Land Title legislation and have scheduled June 13 as the implementation date for the first phase of their electronic registration system. Upon completion, their paper-based system will be re-born, permitting on-line registration and searching.
- **In Alberta**, all survey plans are now fully digital, allowing electronic submission and retrieval through their on-line SPIN service.
- On the West Coast, **British Columbia** automated its Land Registration system in 1992 and is currently developing an updated version which will allow electronic filing.

Non-Resident Land Ownership is on the LRA Agenda

A Voluntary Planning Task Force on Non-resident Land Ownership is in the process of holding consultation sessions around the province. Currently, non-resident land ownership is tracked through the *Land Holdings Disclosure Act*. The proposed *Land Registration Act* would render this Act inapplicable to parcels registered in the new system. The LRA would replace this tracking mechanism with the requirement that any person applying for registration of a parcel must state whether any of the owners is a non-resident (section 38). This would apply on transfer of the registered parcel as well. In addition, an indication of any owner who is a non-resident would appear in the parcel's register. The term 'non-resident' has not been defined in the *Land Registration Act*. This issue will be addressed after the Voluntary Planning Task Force completes its work and releases its report in November, 2001. A standard definition of non-resident will then be incorporated into the regulations under the *Land Registration Act*.

Many Hands.....Registry 2000 Phase Two Working Groups

A number of working groups are being formed to help implement Registry 2000 across Nova Scotia. The working groups which have been established for Phase Two include:

1. **Alpha Site** - oversees Alpha Site selection and implementation
2. **Barristers' MOU** - oversees creation of Barristers' Memorandum of Understanding
3. **Communications** - ensures that all stakeholders and members of the public are kept informed, publishes newsletter, educates public about changed processes
4. **Evaluations** - monitors and evaluates project objectives and outcomes
5. **External Data Sets** - develops plan for creating linkages among external land-related data sets
6. **Fees** - reviews and revises Registry fee schedule
7. **Human Resources** - monitors human resource and changes management issues
8. **Legislation** - revises Land Registration Act, prepares Regulations and monitors legal issues

9. **Procedures** - develops procedures and policies
10. **Procurement** - prepares RFP, oversees procurement process
11. **Standard Forms** - develops forms prescribed by LRA
12. **Surveyors** - addresses issues LRA raises for surveyors
13. **System Requirements** - develops functional and performance requirements, oversees technology implementation
14. **Training** - develops training materials, provides training to staff and users

Some of the Working Groups will include representatives from our various stakeholder groups. If you are interested in participating in the implementation of Registry 2000, please contact the Registry 2000 project office (424-5619).

Please note that working group participation may require a substantial commitment of time, energy and expertise.

LINES OF COMMUNICATION



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To review back issues of the newsletter or obtain additional information about the Project and Bill No 1, The Land Registration Act, please visit our website at:

<http://www.gov.ns.ca/snsmr/property/registry/>