

TAB 1

The Six-Minute Real Estate Lawyer 2018

A Lot from the DOT: Practice Management Tips
from the Land Registry Office

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Practice Management Tips from the Land Registry Office**

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1. **New Fees:** The new Fee Schedule is now in effect. In summary, the cost of a registration increased by 92 cents, and the cost of a one-page PIN went up by 38 cents (both inclusive of HST). Annual increases at half the rate of CPI can be expected every November.
2. **Teraview Accounts:** Registration fees and land transfer tax are electronically withdrawn from your Teraview bank accounts on the same day a registration occurs. Some practitioners continue to think that the bank account sweep occurs on the next business day – this is not the case!
3. **Expired Interests:** Some instruments naturally expire by effluxion of time (e.g. an easement or a restriction that was time-limited on its face). Historically, there has been a variety of ways to remove expired interests from title. Some land registry offices allowed the removal by a request for a “manual” PIN Correction. Other land registry offices insisted on a proper application to delete. Practitioners seeking to delete an expired interest do so only through the registration of an application.
4. **Overrides:** Currently, when a practitioner needs to register a document that Teraview should accept but cannot, the practitioner needs to contact the Land Registry Office by email through LROClientSubmits to request a manual exception process called an “override” (literally, overriding some aspect of Teraview that is preventing registration). Overrides, by their nature, tend to be just-in-time for closing and, therefore, high stress. Moreover, many lawyers do not know which transactions actually give rise to overrides. The DOT will prepare and publish a list of all known overrides and set forth a formal protocol for requesting overrides which will require specified lead-times, likely through a portal in OnLand.

5. **Withdrawals and Returns at Client Request:** Sometimes, a practitioner may wish to have a document returned or withdrawn after the it has registered it, but before it has been certified. Typically, the practitioner made some typographical error (birthdates, surnames, and municipal addresses are common mistakes) and wants to have the document back so he/she can correct it. This is not allowed, and every effort must be made to proofread documents carefully before registration. We do not return otherwise certifiable documents to practitioners just because they have changed their minds and want the document back. The Land Registry Office's rules are analogous to those that prevent customers from asking Canada Post to intercept and return a posted letter after it has been deposited into a mailbox, just because the sender made some error in the letter or otherwise no longer wishes it delivered. The number of requests received daily is quite significant.
6. **Electronic Registration Procedures Guide:** We painstakingly maintain a comprehensive free online registration procedures guide (the "ERPG") which includes almost everything that we know about how to register a document. It seems that many practitioners either do not know that it exists and/or do not bother to read it before submitting an inquiry or override request into LROClientSubmits. The ERPG is available for free in Teraview, and is available in French and in AODA-compliant format, etc.
7. **Pre-Approvals:** We generally will not pre-approve a document in progress to ensure that it is certifiable. That is what the ERPG is supposed to do for you. Recently, there seems to be a material increase in the number of requests for pre-approval (both in the raw number of requests and in the types of documents in respect of which pre-approval is being requested). The DOT is preparing a list of exactly which specific documents that we will pre-approve and will set forth the process by which the documents should be submitted for pre-approval (possibly again through a dedicated portal in Onland).
8. **First Dealings:** Currently if an owner dies with an LTCQ property that he/she acquired prior to conversion, the owner's estate is entitled to take advantage of the simpler testacy rules under the Registry Act (avoiding probate which is the norm for Land Titles). This is called the "first dealings" exemption. Unfortunately, there is no public definition of what exactly constitute a "first dealing" and this has led to some confusion and inconsistency in application. The general rule is, "if you buy in Registry, you get to die in Registry", but, as is often the case, there are many exceptions, nuances, and details to the general rule. The DOT will clarify the exact qualifications for a first dealing exemption, for the benefit of practitioners and staff.

9. **Reference Plan Exemption Requests:** There are many LTCQ properties that still have non-compliant legal descriptions (typically, but not always, metes-and-bounds local descriptions). The intention was that, whenever an owner needed to split an LTCQ PIN, the owner would then have to get a modern legal description (typically, a reference plan). The Land Registrar, in limited circumstances, will permit an owner needing a split an LTCQ PIN to request an exemption from the requirement to get a new reference plan (i.e. permission to continue to use some variation of the non-compliant legal description). The DOT will set out, in clear terms, the grounds upon which the Land Registrar will grant a reference plan exemption request (and, in so doing, set forth some of the grounds upon which we will not grant a reference plan exemption request).
10. **Court Orders:** The Land Registry Office will pre-approve any court order. Almost all draft court orders that currently do come in for pre-approval are replete with errors and inconsistencies (typically, instructions for the Land Registrar to do things that we simply cannot do or, in the alternative, vague instructions to do “whatever is necessary” to fulfill the terms of the judgement). The DOT will issue guidance to practitioners on how to structure a court order in a way that the Land Registry Offices will accept, making pre-approvals easier and avoiding court orders that we ultimately reject.
11. **Airport Zoning Regulations:** Airport zoning regulations (“AZRs”) are passed by the federal government but “registered” locally. The term “registered” is not quite accurate. Historically, while a notice of the AZR is registered on title, the physical zoning regulation is not registered on title. Instead, it is physically left at the affected land registry offices and kept on public display for those curious as to what the AZR actually says and to make copies of the relevant portions thereof that affect them. This can create a great inconvenience to practitioners. Hamilton Airport just came out with their new AZR and we worked with Teranet on a pilot project to image the AZR in Teraview so that practitioners can view and print the actual AZR directly from Teraview without physically coming into the Hamilton Land Registry Office.
12. **The Near Future:** The DOT is currently proposing clarify a host of procedures relating to transactions that typically involve municipalities. The DOT is also contemplating the implementation of a new protocol for the abstracting of easements that should simplify the creation of easements and treatment of easements on the PIN.