

Bulletin No. 2022-07 Land Titles Act, Registry Act

Date: October 28, 2022 Combined Charges

Combined charges are a subset of combined documents and may not be registered on title. Where a charge involves two or more chargors, all of the chargors must have the exact same interest in every PIN charged. If not, then it is a combined charge, which is not permitted and will be returned for correction.

Examples of Combined Charges (which are, therefore, NOT acceptable):

- X, Y, and Z are chargors. X owns PIN 1, Y owns PIN 2, and Z owns Pin 3. EXPLANATION: There are plural chargors, but each of X, Y, and Z do not have the same interest in every PIN charged (i.e., X has no interest at all in PINs 2 and 3, Y has no interest at all in PINs 1 and 3, and Z has no interest at all in PINs 1 and 2). THIS IS A COMBINED CHARGE. This is, by far and away, the most common example of a combined charge, and usually (but not always), the PINs are all abutting each other.
- X and Y are chargors. X owns PIN 1 by itself, and owns a 50% interest in PIN 2 as tenant in common with Y. EXPLANATION: There are plural chargors, but X and Y's respective interests are not exactly the same on each and every PIN being charged (X is 100% on PIN 1 and 50% on PIN 2, whereas Y is 0% on PIN 1 and 50% on PIN 2). THIS IS A COMBINED CHARGE.

Examples of Documents that are NOT Combined Charges (and are, therefore, acceptable):

- X and Y are chargors. X and Y each own a 50% interest in PIN 1 and PIN 2 as tenants in common with each other. EXPLANATION: There are plural chargors, but X and Y's respective interests are exactly the same on each and every PIN being charged (X is 50% on PIN 1 and 50% on PIN 2, and Y is also 50% on PIN 1 and 50% on PIN 2). THIS IS NOT A COMBINED CHARGE.
- X is the sole chargor. X owns PINs 1, 2, and 3. EXPLANATION: There is only one chargor. One chargor can charge his/her interest in as many PINs or parts of PINs that he/she owns. This rule also applies if X had different interests in each PIN (e.g. X owns all of PIN 1, 50% of PIN 2, and 20% of PIN 3, etc.). THIS IS NOT A COMBINED CHARGE.

This is not to say that charges cannot be "cross-collateralized". Where it is the lender's intention to cross collateralize multiple charges, a cross-collateralization clause is permitted in Statement 61 of each of the standalone charges.

The same rule applies to plural chargees, *mutatis mutandis*, although charges with plural lenders who do not have the exact same interest in every PIN charged are quite rare.

The foregoing has always been the rule, but many local land registry offices may have historically allowed some variation of combined charges. Where there is a combined charge already certified on title, it will be treated as valid for the purposes of registering subsequent related documents, like, for instance, an amendment of charge or a discharge, etc.

A combined charge is sometimes perceived by practitioners as necessary because the underlying beneficial owners of multiple abutting properties are the same, but the legal title is owned by multiple different nominees creating the plural chargors scenario described above. Under these circumstances, a combined charge is sometimes submitted for registration, ostensibly to evidence compliance with the subdivision and part-lot control provisions of the *Planning Act*. The Land Registry Office does not provide *Planning Act* advice, but will not allow a combined charge in such circumstances, on the theory that the general principles set out in *Szegho v. Baril*, 1978 CarswellOnt 534, [1978] 1 A.C.W.S. 475, 19 O.R. (2d) 95, 3 R.P.R. 252 are likely to apply to multiple cross-collateralized charges registered as part of the same transaction.

Original signed by

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