

Subject: **CAVEATS REGISTERED PURSUANT TO STATUTES OF ALBERTA OTHER THAN THE LAND TITLES ACT**

REGISTRATION PROCEDURE

The general provisions with respect to the registration of caveats (see procedure under [CAV-1](#)) apply unless contradicted in any of the following sections on the specific caveat. In the following situations, the section number of the applicable statute should be stated in the caveat.

For all Caveats below:

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Caveat

The code used for registration at Land Titles is: CAVE

1. Condominium Property Act, R.S.A. 2000, c. C-22

A condominium corporation may file a caveat under section 39 against the certificate of title to an owner's (1) unit for the amount of the unpaid contribution to expenses of the corporation levied against the owner (usually referred to as condominium fees). (2) This includes interest on the unpaid balance of a contribution owing to it by an owner and a deposit levied under section 53(3) against an owner who rents his residential unit. (3) The corporation then has a charge against the condominium unit equal to the unpaid contribution. (4) The charge created has the same priority from the date of registration as a mortgage under the Land Titles Act and may be enforced in the same manner as a mortgage. (5)

The fee for filing the caveat is based on the amount of the unpaid contributions. (6)

2. Dower Act, R.S.A. 2000, c. D-15

See procedure under Dower [DOW-1](#).

3. Income and Employment Supports Act, R.S.A. 2003, c. 1-0.5to

The Director may file a caveat (use document type Caveat re under Income and Employment Supports Act (CAVS) for registration) under section 40(1) in respect of assistance provided under Part 2, Division 1 in respect of certain payments. The caveat creates a charge on the land.

A notice of the registration of the caveat is sent to:

- a) the mortgagor, when payments are made for a mortgage,
- b) the purchaser, when payments are made under an agreement for sale,
- c) the person who has received a social allowance, when payment of the costs of repairs to buildings or other improvements to the land has been made, and
- d) the registered owner(s).

A caveat registered pursuant to this section cannot be lapsed and can only be withdrawn on the Director's request. (7)

The filing or discharge of the caveat is done without fee. (8)

4. **Municipal Government Act**, R.S.A. 2000, c. M-26

- a) Development Agreement (DEVM)

A caveat in respect of an agreement that is entered into under section 650 as a condition of issuing a development permit may be registered by a municipality against the certificate of title for the land that is the subject of the development.

A caveat in respect of an agreement that is entered into under section 655(1)(b) as a condition of subdivision approval may be registered by a municipality against the certificate of title for the parcel that is the subject of the subdivision under section 655(2).

- b) Order (ORDM)

A caveat pursuant to section 646(2) regarding a stop order issued under section 645 where there is non-compliance with the regulations or a land use by-law, may be registered by the municipality against the certificate of title for land that is subject of the order.

A caveat pursuant to section 546.1(1) in respect of an order made under section 545 or 546 dealing with a dangerous structure, excavation or hole or unsightly property, may be registered against the certificate of title for the land that is the subject of the order.

The caveat can only be discharged by the Municipality, their agent or by an order of a court, and cannot be lapsed.

- c) Restrictive Covenant (RESM)

A caveat pursuant to section 651.1 in respect of a restrictive covenant granted by the registered owner of a parcel of land, to the municipality for the benefit of land that is under the direction, control or management of the municipality, may be registered, whether or not the municipality has been issued a certificate of title for the benefiting lands.

The caveat can only be discharged by the Municipality, their agent or by an order of a court, and cannot be lapsed.

d) Encroachment Agreement (ENCM)

A caveat pursuant to section 651.2 in respect of an encroachment agreement entered into by the municipality, with the registered owner of a parcel of land that adjoins a road (lane, street), that is under the direction, control or management of the municipality, may be registered.

Caveats referred to in items c) and d) can only be discharged by the municipality or by an order of a court and cannot be lapsed.

The caveat can only be discharged by the Municipality, their agent or by an order of a court, and cannot be lapsed.

e) Affordable Housing Agreement (AHAM)

Part 4.1 of the Municipal Government Act (s. 141.3) allows for a City Charter to be implemented by way of Regulation. Pursuant to s. 141.5(3) of the Municipal Government Act, a City Charter implemented under this section may supplement the Municipal Government Act as well as any other enactment including the Land Titles Act.

The City of Calgary Charter, 2018 Regulation, and City of Edmonton Charter, 2018 Regulation add s. 651.3 to the MGA which allows for a caveat re affordable housing agreements to be registered against titles to land.

The agreement creates an interest in favour of the City in the land that is the subject of the agreement, and the interest is deemed to be a condition running with and capable of being legally annexed to the land. (9) Despite the *Land Titles Act* or any other enactment, the City may register a caveat under the *Land Titles Act* in respect of an agreement under this section. (10)

The caveat can only be discharged by the municipality, their agent or by an order of a court, and cannot be lapsed.

f) Deferred Reserve (DEFR)

A subdivision authority is required to file a caveat under section 669 where the requirement to provide municipal or school reserves has been deferred.

g) Undermining and Related Conditions (CANU)

Section 8(1) of the Canmore Undermining Review Regulation (Alberta Regulation 114/97) requires a developer to file a caveat against any title to land for which an undermining report is prepared and a compliance review certificate is completed which is validated and is deemed to have been made under section 694 of the Municipal Government Act. (11) The caveat must describe the undermining and related conditions

of the land and the duties of the owner of the land in respect to the undermining and related conditions. (12) A caveat registered under this section runs with the land (13) and cannot be discharged or lapsed (14).

5. **Safer Communities and Neighbourhoods Act**, R.S.A. 2000, c S-0.5 (COSO)

The *Safer Communities and Neighbourhoods Act* grants authority to the Director of Law Enforcement appointed under the *Police Act*, to apply to the Court of Kings Bench of Alberta for Orders if a community, neighbourhood or its inhabitants is adversely affected by activities that pose a serious and immediate threat to health, safety and security or that interfere with the peaceful enjoyment of the community, or to issue Orders to remove fortifications from buildings or to close those buildings until the fortifications are removed.

The Director of Law Enforcement, as caveator, can register caveats based on these Orders. These caveat claims will be based on:

- 1) Community Safety Order or Varied Community Safety Order (15) (16)
- 2) Removal Order or Closure Order (17) (18)

A copy of the applicable Order must be attached to the caveat. (19) (A photocopy of the Order is acceptable). (A caveat re the original Community Safety Order need not be registered before a caveat based on a Varied Community Safety Order can be registered, as one reason to vary the Order may be to include lands that were not originally included).

These caveats cannot be amended; if a registered caveat is amended, a new caveat must be registered.

These caveats do not lapse; they must be discharged by the Director (or agent). (20) The Director may partially discharge these caveats as to land, or they may be fully discharged. (21)

6. **Unclaimed Personal Property and Vested Property Act**

The Minister responsible for the Act may file a caveat under section 26 to protect the Crown's interest in vested land. Caveat code UVPA is used.

A caveat filed pursuant to this Act cannot be lapsed and can only be withdrawn by the Minister responsible for the Act. (22)

Tariff item 5(1) is charged for the registration of the caveat.

7. **Discharge of Zoning Caveat**

A zoning caveat registered under a former Planning Act ceases to have effect. A registered owner or a solicitor on behalf of the owner may make application to have the caveat discharged. The caveat may be discharged by the Registrar upon being satisfied that the caveat was in fact a zoning caveat. (23)

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Discharge by Order

The code used for registration at Land Titles is: DISO

8. Discharge of Deferred Reserve Caveat

A deferred reserve caveat registered under a former Planning Act, in respect of land for which under section 663 of the Municipal Government Act, the provision of reserve land cannot be required, may be discharged upon application of the registered owner. The application may be in the form of a letter indicating that one of the subsections in section 663 is applicable. If subsection (b) is applicable (i.e., lots of 40 acres or more to be used solely for agricultural purposes), the applicant must state that the land is used solely for agricultural purposes. The application is to be referred to the Surveys section for approval. (24)

A deferred reserve caveat may be discharged by the subdivision authority responsible for the area in which the land is situated. If a discharge is signed by an authority other than the caveator, check with Surveys section to verify that the land is within the boundaries of that authority's area.

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Discharge

The code used for registration at Land Titles is: DISC

9. Seniors Home Adaptation and Repair Act

The ministry of Seniors and Housing has a program, which provides low interest home equity loans to help seniors finance necessary repairs, adaptation and renovations to their home.

These caveats cannot be lapsed.

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Caveat

The code used for registration at Land Titles is: CAVH and the Caveat interest is AGRC

The filing or discharge of the caveat is done with no fee. It can be discharged by any “name, position” authorized by the Minister. (25) This signature must read:

“Per _____
Name of Authorized Staff
Seniors Home Adaptation and Repair, Loan Specialist “

10. **New Home Buyer Protection Act**, R.S.A. 2012, c. N-3.2

Rental Use Designation Caveat

In 2014, the *New Home Buyer Protection Act* came into force requiring builders to provide new home warranty coverage on all new residential homes, including condominiums, manufactured homes, and recreational properties.

Under the *New Home Buyer Protection Act*, multi-family rental properties are eligible for a rental-use designation for their property (26). This designation allows a rental developer/owner to build a new multi-family rental property without the requirement to purchase a new home warranty policy for the units.

The legislation requires the lands subject to the rental use designation to be maintained as a rental for the entire 10-year protection period prescribed under the Act (27). It further requires approval of the Registrar of the *New Home Buyer Protection Act* to provide permission if the rental developer/owner wishes to subdivide or sell the land to another entity. Any future owner who has been granted permission to purchase the land is subject to the caveat.

Should a rental developer/owner decide to subdivide or sell the land during the 10-year protection period and the units are not going to remain as rentals, new home warranty must be purchased and registered in the New Home Buyer Protection System Public Registry ([Home Warranty | Public Registry \(alberta.ca\)](https://www.alberta.ca/home-warranty-public-registry)) for all the units. Once the warranties have been registered the caveat will be removed from the title by the Residential Protection Program.

Note the multi-family rental property must be contained on a single title (For information on how to Consolidate see [CON-1](#))

To inquire about Rental Use Designation Caveats or obtain permission from the Registrar of the *New Home Buyer Protection Act* to subdivide or sell please email rpp@gov.ab.ca.

[New home warranty – Rental use designation | Alberta.ca](#)

A caveat pursuant to section 3.1 of the *New Home Buyer Protection Act* is registered on title in which a multiple family dwelling was built for rental purposes only. This designation prevents the land:

(a) from being

- i. sold,
- ii. made subject to an agreement for sale,
- iii. otherwise disposed of,

unless to a person who meets the requirements of section 3.1(3) of the *New Home Buyer Protection Act*,

(b) from being included in a condominium plan or proposed condominium plan, or

(c) from being subdivided in any other manner

without the written permission of the Registrar, as per section 3.1(8) of the *New Home Buyer Protection Act*.

A caveat can be registered and discharged by any Program Officer or Compliance Officer or anyone delegated by the Minister of Municipal Affairs.

These caveats cannot be lapsed.

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Caveat

The code used for registration at Land Titles is: CAVE and the Caveat interest is REUD

STATUTE AND CASE REFERENCES

1. s. 1(s), Condominium Property Act, R.S.A. 2000, c. C-22
2. s. 39(4), Condominium Property Act
3. s. 41, Condominium Property Act
4. s. 39(5), Condominium Property Act
5. s. 39(6), Condominium Property Act
6. s. 133, Land Titles Act, R.S.A. 2000, c. L-4
7. s. 40(4), Income and Employment Supports Act R.S.A. 2003, c.1-0.5
8. s. 40(5), Income and Employment Supports Act R.S.A. 2003, c.1-0.5
9. s. 651.3(6), Municipal Government Act (City of Calgary/Edmonton Charter Regulations 2018)
10. s. 651.3(7), Municipal Government Act (City of Calgary/Edmonton Charter Regulations 2018)
11. s. 694(5.5), Municipal Government Act, R.S.A. 2000, c. M-26
12. s. 694(5.1), Municipal Government Act
13. s. 694(5.3), Municipal Government Act
14. s. 694(5.4), Municipal Government Act
15. s. 22(1), Safer Communities and Neighbourhoods Act, R.S.A. 2008, c. S-0.5
16. s. 8, Safer Communities and Neighbourhoods Act
17. s. 44(2)(b), Safer Communities and Neighbourhoods Act
18. s. 45(2)(b), Safer Communities and Neighbourhoods Act
19. s. 22(2) and 47(1), Safer Communities and Neighbourhoods Act
20. s. 22(5) and 47(5), Safer Communities and Neighbourhoods Act
21. s. 137(1), Land Titles Act, R.S.A. 2000, c.L-4
22. s. 26(2), Unclaimed Personal Property and Vested Property Act
23. s. 697, Municipal Government Act
24. s. 669, Municipal Government Act
25. s. 3, Seniors Home Adaptation and Repair Act
26. s. 31, New Home Buyer Protection Act, R.S.A. 2012, c. N-3.2
27. s. 1.1(3), New Home Buyer Protection Act, R.S.A. 2012, c. N-3.2