

## **BACKGROUND**

Crown Grants include letters patent issued by the Crown in right of Canada and notifications issued under the Public Lands Act of Alberta.

Prior to the Natural Resources Agreement between certain provinces and the Federal Government in 1930, (1) public lands in Alberta were under the jurisdiction of the Crown in right of Canada. Grants of land to persons were made in the form of letters patent. After the transfer of jurisdiction over public lands to the provinces under the 1930 agreement, the Crown in right of Alberta has granted public lands to persons using the form of notification provided for in the Public Lands Act. The notification is also used to bring land under the operation of the Land Titles Act in the name of Her Majesty the Queen in right of Alberta.

Letters patent and notifications provide the authority for the Registrar to bring land under the operation of the Land Titles Act and issue a certificate of title. The bringing of a parcel under the system, whether it is in the name of the Crown or a subject, binds the estate to the rules under the Act unless there is a specific enactment to the contrary. (2)

## **REGISTRATION PROCEDURE**

All notifications and letters patent for which no certificate of title exists are referred to the Surveys section for processing.

### **A. UNTITLED CROWN LAND**

1. The Public Lands Act provides that when any person is entitled to receive a title for an estate in fee simple to any public land, a notification (FORM A) is to be issued. (3) The Land Titles Act authorizes the Registrar to accept notifications affecting any land vested in the Crown in right of Alberta and to deal with them as if they were letters patent. See procedure under SUR-11. (4)

2. When a notification is submitted, the title record, the microfilm record of the abstract cards, the microfiche records, the road index cards and the township sheets must be checked to determine whether a certificate of title for the land has already been issued or prior interests have been granted. If there is a title for the land and the provincial Crown is not the owner, the notification is to be rejected.

3. **Legal description** - This is usually attached to the notification as a second page.

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

The code used for registration at Land Titles is: NOTI

4. **Mines and Minerals** - Section 35(1) of the Public Lands Act provides that mines and minerals and the right to work the same are excepted whether they are mentioned in the notification or not. Thus, even if the notification fails to except the mines and minerals and the right to work the same, the certificate of title must contain the following exception:

"EXCEPTING THEREOUT ALL MINES AND  
MINERALS AND THE RIGHT TO WORK THE SAME"

5. **Grantee** - If the grantee is the provincial Crown or the federal Crown, the certificate of title should be written in favour of "HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA" or "HER MAJESTY THE QUEEN IN RIGHT OF CANADA", as represented by the Minister of the appropriate department. (5)

6. **Nature of the grant** - Some examples of grants are civilian homestead sale, farm purchase sale, farm development sale and agricultural farm sale. If the grant is specified to be pursuant to a homestead sale or a homestead lease, then no fee is charged. (6) If the notification restricts the use of the land to a site for school purposes, for a church or mission, for a burial ground or for a community hall, the restriction (often referred to as a habendum clause) must be recorded as a endorsement on title with the registration number and date of the notification. (7) An example of the particulars is as follows:

"832000001 - 3/01/84 - USE RESTRICTED TO A SITE FOR  
SCHOOL PURPOSES"

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

The code used for registration at Land Titles is: HABC

A restriction on use may be discharged or amended by an order of the minister responsible for administration of public lands under the Public Lands Act or his deputy minister. (8)

7. **Other reservations or exceptions** - If the notification is made subject to any other reservation or exception pursuant to section 35(2) of the Public Lands Act, this must also be recorded as a endorsement on the certificate of title.

8. **Signatures** - A notification must be signed by the minister responsible for administration of public lands under the Public Lands Act or his deputy minister *and* by the Assistant Deputy Minister of Sustainable Resource Development, or by a person acting in either capacity. (9) A witness and affidavit of attestation are not required. (10)
9. **Subject to other interests** - If the notification is made subject to some other unregistered interest (e.g., utility right of way, lease), a certified copy of the document creating the interest is required. The document is registered prior to the notification and endorsed on title. (11)
10. If the search for a certificate of title under item 2 above disclosed any prior registrations affecting the lands in the grant, endorse the registered documents on the new certificate of title.
11. Affidavit re Value of Land (FORM 32) must be completed.

## B. TITLED CROWN LAND

1. **Notification** - If title has already been issued to the provincial Crown, a notification under the Public Lands Act can be accepted in lieu of a transfer. (12)
2. **Transfer** - A transfer is processed as any other transfer, except that dower requirements need not be complied with. (13)
3. **Letters Patent** - Where letters patent from the federal Crown are received, it is almost certain that there will be an existing certificate of title in the name of Her Majesty the Queen in right of Canada. The letters patent are registered as a transfer of land.

## C. FEES

Tariff item 3 is charged on all letters patent, notifications, or transfers except Civilian Homestead Notifications in which case no fee is charged. (14)

On a notification where grantee is the Crown in right of Alberta or Canada, no fee is charged. (15)

## STATUTE AND CASE REFERENCES

Statute references are to the Public Lands Act, R.S.A. 2000, c. P-40, unless otherwise indicated.

1. Constitution Act, 1930 (found at R.S.C. 1970 App. II No. 25)
2. V. DiCastri, *Thom's Canadian Torrens System, 2nd ed.*, p. 65
3. s. 30
4. s. 29(5) and (7), Land Titles Act, R.S.A. 2000, c. L-4
5. s. 30(4)
6. s. 29(2), Land Titles Act
7. s. 19(1), (3) and (4)
8. s. 19(5)
9. s. 30(1); s. 21(2), Interpretation Act, R.S.A. 2000, c. I-8
10. s. 159, Land Titles Act
11. s. 29(1), Land Titles Act
12. s. 30; s. 66 of the Land Titles Act is permissive rather than mandatory.
13. s. 66(2), Land Titles Act
14. s. 29(2), Land Titles Act
15. s. 30(5)