



**Land Titles Conversion Qualified  
(LTCQ)  
to  
Land Titles Absolute Plus  
(LT+)**

**Client Guide**  
August 2001  
Ministry of Consumer & Business Services  
Registration Division  
Title and Survey Services Office

# TABLE OF CONTENTS

BACKGROUND .....	1
1.0 UPGRADING TITLE .....	3
1.1 Plan of Survey.....	3
Use of Existing Reference Plans.....	5
Certificate of Surveyor.....	5
1.2 Title.....	5
Property Index Map .....	6
Parcel Registers.....	6
Title Review.....	7
1.3 Notice.....	8
Registration of Notice .....	8
Service of Notice .....	8
Who to Serve.....	9
Notice List.....	12
1.4 Objections .....	13
Hearings .....	13
1.5 The Application .....	14
Submission and Registration of the Application .....	15
Discontinuance of Application Process .....	15
2.0 MAKING AND PERFECTING A POSSESSORY CLAIM .....	16
Declaration of Possession .....	16
Appendix A - Notice of Application.....	17
Appendix B - Form for Publication of Notice of Application.....	18
Appendix C - Consent and Waiver of Notice.....	19
Appendix D - Suggested Form of Letter to send with Notice .....	20
Appendix E - Statement of Objection.....	21
Appendix F - Notice of Hearing.....	22
Appendix G - Application for Absolute Title.....	23
Appendix H - Certificate of Solicitor .....	24
Appendix I - Certificate of Surveyor.....	26
Appendix J - Notice of Discontinuance.....	28
Appendix K- Notice of Change of Interest.....	29
Appendix L - Notice of Claim to Ownership by Pre-existing Length of Possession.....	30
Appendix M - Covenant to Indemnify .....	31
Appendix N - Automated Parcel (PIN) Qualifiers.....	32
QUESTIONS AND ANSWERS .....	33
INQUIRES .....	37

# Background

For many years, the Province of Ontario has maintained two active paper-based systems of land registration - the registry system and the land titles system - with a gradual movement toward a single system of land registration, namely, the land titles system.

When using the first application process for conversion of registry lands to the land titles system, the owner applies and provides a 40 year title search, a current survey and also serves notices on adjoining owners and interested parties. If necessary, a hearing is held to resolve title disputes or adverse claims. The issued land titles parcel register then shows the applicant as owner with an absolute title. Under this procedure, a party could also claim and have perfected a right to ownership or use of land based on the length of possession or use.

Under a program called **POLARIS (Province of Ontario Land Registration and Information System)**, automation of the all land registration records is being undertaken. In the land titles system, the records are automated using the existing parcel registers. The automated parcel register mirrors the content and quality of the title record in the paper system.

When automating registry system records, a title search is necessary to parcelize, reorganize and load the data according to registered ownership. It was therefore decided that, when automating, conversion to one system could be accelerated through administratively converting existing registry lands into land titles parcels, with special qualifications attached. This administrative process does not involve owner applications, current surveys, service on adjoining or interested parties or a hearing process that would identify and resolve title disputes or adverse claims.

Accordingly, all titles for properties converted under this administrative procedure are given qualifiers that differ from the normal land titles qualifiers. A parcel register issued pursuant to the administrative conversion will show **LTCQ (Land Titles Conversion Qualified)** in the [Estate/Qualifier] field. These qualified titles are subject to any pre-existing claims based on possession (paragraph 44 (1) 3 of the *Land Titles Act*) and other qualifiers.

During conversion, records are specifically examined with respect to some qualifiers. (Planning Act compliance, dower rights, succession duties and escheats). Although traditional land titles parcels are subject to these qualifiers and others listed in section 44 of the *Land Titles Act* the guarantee of title will cover these items on LTCQ parcels up to the date of conversion.

The *Limitations Act* requirements respecting acquisition, the right to use through prescription or to bar the registered owner from commencing an action to recover an interest in land, must have been completely met before title conversion. Time stops running when lands are converted to the land titles system.

The registered owner of administratively converted Conversion Qualified (**LTCQ**) lands can upgrade title to absolute using an application to amend the register and following the procedure set out in this guide. The resulting absolute title is referred to as Land Titles Absolute Plus (**LT+**). Because of the removal of some of the qualifiers in the conversion process (Planning Act, dower, succession duties and escheats) what results is an absolute title which has more guarantees than traditional absolute, hence Land Titles Absolute Plus **LT+**.

Reasons for upgrading title from LTCQ to LT+ include:

- ◆ The resolution of title disputes or adverse claims.
- ◆ The development of land by condominium or subdivision.
- ◆ A lender may require absolute title prior to the advancement of funds.

The following procedure is designed to accomplish this for any property converted to the automated land titles system with a qualified title. It provides a process, under section 46 of the *Land Titles Act*, for a registered owner to apply to upgrade their title from qualified to absolute.

The procedure also provides for a party in possession of land, which has been converted and entered in the name of the registered owner, to claim and perfect a right to ownership, based solely on the pre-existing length of possession, pursuant to Section 36 of the *Land Titles Act*.

The procedure is therefor divided into two sections.

## **1.0 Upgrading Title**

The process for upgrading a title from qualified to absolute.

## **2.0 Making and Perfecting a Possessory Claim**

The additional procedural requirements for a person in possession of land to make and perfect a claim to ownership based on a pre-existing length of possession and how to upgrade title from qualified to absolute.

Staff of the land registry office and the Regional Surveyors are available to discuss any aspect of the application, forms and procedures before submission of the application package.

# **1.0 Upgrading Title**

The application is to amend the register and is not presented for registration until all necessary steps have been completed. The procedure involves the following steps:

- Preparation of a draft reference plan by an Ontario Land Surveyor, (see **1.1 Plan of Survey**)
- search or review of the title records by a solicitor, (see **1.2 Title**)
- preparation and service of a notice of application and copy of the draft reference plan, on all persons entitled to notice, (see **1.3 Notice**)
- resolution of objections or hearing and final disposition of objections (see **1.4 Objections**)
- application to amend the register by removing qualifiers and entering applicant as owner with an absolute title. (see **1.5 Application**)

## **1.1 Plan of Survey**

An Ontario Land Surveyor must prepare a draft reference plan, which is then used to describe the land in the application. The draft reference plan only illustrates the land under application together with all its appurtenant and servient easements or rights.

The draft reference plan will show:

- ◆ The lands of the owner, which are the same as described in the parcel register (PIN); or
- ◆ If the owner occupies more land than that described in the parcel register, the additional lands illustrated as a separate Part(s); or
- ◆ If the owner occupies less land than that described in the parcel register, the existing extent of the applicant's parcel by light broken lines.

The extent of title is governed by the evidence (deeds, plans and physical evidence) of the true location of the boundaries on the ground and by the rules of law as they relate to that evidence. The Property Index Map is only a graphic representation of the location and relationship of the parcels one to another and it is not conclusive as to the location, shape or extent of the parcel.

Separate parts must be created for all appurtenant and servient interests and the plan must also illustrate all of the applicable items mentioned in the Certificate of Surveyor (Appendix I).

If the surveyor determines that the owner occupies more land than that described in the parcel register, two common causes may exist:

- i) The lands were mis-described in the parcel register. In this situation the surveyor should prepare the plan showing the subject lands as being all of the PIN and bring the matter to the attention of Land Registry Office staff.
- ii) the owner may have a right to title, to a limited interest or right to use of the additional land. In this situation, the surveyor, solicitor and the owner should discuss the relevant provisions of the *Limitations Act* and related case law to decide whether to continue with a claim to a right to ownership or use of the additional land, by virtue of the pre-existing length of possession or use up to the date of conversion.

If the decision is to pursue a claim to the additional land, the surveyor must show the additional lands as a separate PART(s) and illustrate the evidence found and adopted that delineates their extent.

If the decision is not to pursue a claim to the additional land, the plan must not illustrate this land as a PART(s) but shall illustrate the extent and evidence of the occupational limits in light dashed lines with suitable ties.

If the surveyor determines that less land is occupied than that described in the parcel register, two common causes are:

- i) The lands were mis-described in the parcel register. The Surveyor should prepare the plan showing the subject lands as being all of the PIN and bring the matter to the attention of land registry office staff.
- ii) Some of the lands might have been lost due to adverse possession, etc. The surveyor, solicitor and owner must decide whether to claim all of the land described in the parcel register or only the land occupied. In deciding, they should consider the provisions of the *Limitations Act*, which may bar their claim to ownership or it might be subject to the right of other parties to use it.

It is not necessary to upgrade all of the applicant's lands to absolute title, but it should be noted, however, that the *Planning Act* still applies to all commonly owned lands recorded under either system.

Only the lands under application will be shown as a PART(s). Any other land included in the applicant's parcel description shall be shown in light dashed lines.

When the determination of the extent of the land has been made, the survey can be completed, the draft reference plan prepared and the Certificate of Surveyor completed.

If land or an interest in land is claimed by virtue of a pre-existing length of possession or use, see **2.0 Making and Perfecting a Possessory Claim**, before proceeding to register and serve the Notice of Application.

## **Use of Existing Reference Plans**

In extraordinary circumstances, the use of an existing reference plan might be permitted at the discretion and with the written approval of the appropriate Regional Surveyor and prior to service of notice, provided the applicant's surveyor can certify the following:

- the plan is a complete, current and accurate illustration of the land, including all rights of way or other easements claimed as appurtenant to or which it is subject to, at the time of making the application; and
- the plan shows all of the relevant features mentioned in the Certificate of Surveyor (Appendix I)

Note: If an existing reference plan is approved for use and a change is required because of a successful objection or subsequent material registrations have occurred, a new reference plan will be required.

## **Certificate of Surveyor (Appendix I)**

The Certificate of Surveyor certifies that the survey is complete, current and accurate and that the land and interests in the land claimed by the owner/applicant are properly depicted on the draft plan. The surveyor also certifies that all evidence, found on the ground, of apparent interests in the subject land, other than those of the owner/applicant, have been accurately shown on the plan.

In the event additional survey work is required and the draft reference plan is amended, whether because of changes to the application or the final disposition of an objection, the surveyor must provide a revised Certificate of Surveyor. The completed Certificate of Surveyor will be attached to the application as supporting material and must be current at the time of making the application or current to the date the plan of survey was amended.

## **1.2 Title**

When automating the records, registry system lands will usually be converted to the land titles system and given a qualified title. The record is given a **PIN (Property Identifier Number)** and this PIN is used to identify and track all subsequent land related registrations and dealings.

## Property Index Map

The Property Index Map illustrates the general shape of the property described in each automated record and further illustrates its location in relation to adjoining parcels of land. The last 4 digits of the PIN for each property is shown within its boundaries on the map and copies of these Property Index Maps are available from the appropriate Land Registry Office.

When applying to amend the parcel register, a copy of the Property Index Map showing the lands under application is required. This copy must include the land in the application and all adjoining lands showing their respective PINs, if the lands have been automated.

If the adjoining lands have not been automated, the copy of the Property Index Map must be marked to illustrate the registration numbers of the title documents for registry, or Parcel and Section numbers for land titles, for the adjoining lands that have not yet be automated.

- ◆ Adjoining lands include any public highways, lands covered by water and any other lands which touch the land of the applicant, even if only at a single point.

## Parcel Registers

The solicitor and surveyor are to resolve all errors or omissions, shown on the register, prior to Notices being served. Following the service of notice, current (as of the date Notices are served or later) copies of the parcel register (PIN) for the lands in the application and for all adjoining lands must accompany the application to amend the register.

## Automated Records

In the automated system, the parcel register is the computer printout or photocopy of the title record. The [as of] date shown on the copy of the parcel register (PIN) should be the date on which notices of the application were served or later.

## Paper-based Land Titles Records

If the adjoining lands are under the *Land Titles Act* but not yet automated, the copy required is of the paper parcel register certified by the solicitor or surveyor to be current to the date notices of the application were served or later.

## Paper-based Registry Records

If the adjoining lands are under the *Registry Act* but not yet automated, a search of the paper record must be done and the relevant information summarized in a declaration by the solicitor.

- ◆ Obtaining a photocopy of the abstract index is not necessary. In the event only a photocopy of the abstract index is submitted, the submission will be returned with a request for the required solicitor's declaration.

The solicitor's declaration will be a listing of the current owner(s) of adjoining land and the beneficial owners of rights-of-way or other easements, which affect or adjoin the land in the application.

If there is evidence that a mortgagee/chargee of adjoining land is in possession of adjoining lands, the mortgagee/chargee who is in possession must also be listed and served. Each entry on the list should refer to the registration number of the instruments by which each party or corporation was granted their interest in the land or to the originating grant if the interest is a right-of-way or easement.

## **Title Review**

Review of the parcel registers for the subject and adjoining land is done:

- to ensure the applicant is shown as the registered owner of the subject land;
- to identify any possible violations of the *Planning Act*, since the date of conversion, which might affect the title claimed by the owner/applicant;
- to determine the existence of any appurtenant rights-of-way or other easements and to confirm in whose favour they were granted. Notice of the Application must be served on the respective owners of the lands over which such rights pass;
- to ensure that reference to any rights-of-way or other easements, which affect the subject lands, are correctly set out in the legal description of the land in the application and that the Notice of Application is served on the owners of the benefiting lands;
- to ensure that notice is served on adjoining land owners and any mortgagees/chargees that are in possession of adjoining land;
- to ensure notice is served on all parties who have the benefit of any rights-of-way or easements over or that adjoin the subject lands and all potential claimants who have been identified by the survey because of their physical use of the subject lands;
- to ensure the legal descriptions for the adjoining lands are consistent with the description of the subject lands and any apparent conflicts have been illustrated on the draft reference plan of survey.

When the review of the parcel registers (PINs) is completed, the solicitor should compare the

registered title information for the land under application and the adjoining lands with the draft reference plan. Any differences (i.e. gaps, overlaps or instruments numbers) should be discussed with the surveyor and resolved by either the title record or the plan being corrected.

## 1.3 Notice

### Registration of Notice

A Notice of Application (Appendix A) addressed to the Land Registrar is either attached to or incorporated into a Form 4 - Document General, (Regulation 688, R.R.O. 1990, made under the *Land Registration Reform Act*). The Notice of Application, with a print of the draft reference plan attached, must have been registered in the Land Registry Office prior to notices being served. A Notice must be registered even though all required parties have given their Consents and Waivers.

### Service of Notice

Registration and service of the Notice of Application should occur on the same or the successive days to ensure Notice is given to the proper and current registered parties.

The applicant may choose to serve Notice by way of registered mail or, if they wish to accelerate the process, may obtain Consents and Waiver of Notice (Appendix C) from the parties entitled to notice. If the mail is ineffective or a Consent and Waiver cannot be obtained, alternate methods for service may have to be considered, i.e. publishing in local paper. (see Alternate Service on page 12)

If Consents and Waiver of Notice are obtained from all necessary parties, there is no need to provide a date for the filing of a statement of objection in the Notice of Application but the Notice must still be registered. The application to amend the register could then be submitted to the Land Registrar, immediately after registration of the Notice.

**Note:** A copy of the Draft Reference Plan dated and signed by the consenting parties, must be attached to the signed Consent and Waiver of Notice.

The Consent and Waiver of Notice becomes invalid if the draft Reference Plan attached to it is amended by changing any of the boundaries between the land in which the consenting party has an interest and the land under application, or if the draft Reference Plan is amended to add any right of way or other easement affecting land in which the consenting party has an interest.

The Notice of Application, if served by registered mail, must provide a period of at least thirty days for filing a statement of an objection and this thirty-day period must appear in the registered Notice of Application.

The notice package must contain:

- a) a copy of the registered Notice of Application, (Appendix A)
- b) a white print or legible reduced photocopy of the draft reference plan,
- c) an explanation of the purpose of the application and instructions for obtaining further information or for filing an objection (Appendix D),
- d) a Statement of Objection form (Appendix E)

## **Who to Serve**

Notice should only be served on the parties that have an ownership or vested title and/or an easement or other right in the subject and adjoining lands. These interests are those registered on title or created by statutory authority, which may not be recorded or referred to in registered documents. Unless a Consent and Waiver of Notice is obtained, a Notice of Application along with a signed print of the draft Reference Plan, must be served, by registered mail or personal service, upon the following parties:

- Every registered owner of a right or easement in the subject land.
- Every party who according to the draft plan could claim an encroachment or an unregistered easement or other right in or over the subject land. This means those parties whose buildings or other improvements encroach upon the subject land, or who are otherwise affected by such encroachments, must be served with a notice. Notices are usually served on these parties as adjoining owners.
- If the adjoining owner is not a condominium property, every owner of the adjoining land, every mortgagee/chargee of adjoining land, who according to the records of the land registry office is in possession and every owner of a registered right of way or other easement that touches the limits of the subject land.
- If the adjoining land is a condominium property and a part of the common elements touch the limits of the subject land, serve the Condominium Corporation and every independent owner, other than condominium owners who have a registered right of way or other easement, over those adjoining parts of the common elements.
- If the adjoining land is a condominium property and an individual unit or units adjoin the subject land, serve the owner and any mortgagee/chargee who, according to the records of the land registry office, is in possession of those units and any owner of a registered right of way or other easement in the units.

- Every ministry, board, commission or agency of the Government of Ontario or Canada, including Ontario Hydro's successors and every municipality, including a metropolitan, regional and district municipality, or the County of Oxford, where applicable, if they have an unregistered interest in the adjoining land, as indicated on the draft Reference Plan.

**Note:** Ontario Hydro has been succeeded by several entities established under the *Electricity Act, 1998*, including Ontario Hydro Services Company Inc. and Ontario Power Generation Inc. If it is determined that Ontario Hydro, its predecessor or successor has an interest in the subject or adjoining lands notice is to be sent to:

Ontario Hydro Networks Company,  
Law Division,  
483 Bay St., 8<sup>th</sup> Floor,  
South Tower,  
TORONTO, ON, M5G 2P5.

Serving a Notice on Ontario Hydro or its successors is not necessary unless it has a registered interest or its power lines appear of the plan. Not all rights related to transmission lines or buried cables belong to Ontario Hydro or its successors. Some belong to municipalities or public utility commissions, while others may belong to the party who owns and is being served by the lines.

Ontario Hydro successors should only be served with notice if:

- a) Ontario Hydro or its successor is the registered owner of the adjoining land:
- b) Ontario Hydro, its predecessor The Hydro-Electric Power Commission of Ontario, or its successor is named as the beneficial owner in a registered right-of-way or other easement that affects or adjoins the land in the application; or
- c) there is physical evidence on the ground of a power transmission line such as, a buried power cable, overhead wires, etc., in, on or next to the applicants land and the works are not privately owned or are the works of a municipal public utility or commission. This physical evidence must be shown on the draft plan.

Before serving Ontario Hydro's successor, enquiries should be made locally to ensure that no other party or corporation is the owner and the correct party is rightly served with the Notice.

- All levels of government (municipal, provincial or federal), boards, commissions or agencies (e.g., Hydro, regional conservation authority, Welland Canal Authority, St. Lawrence Seaway, Trent Canal Waterway System, etc.) must be notified if they appear by the draft Reference Plan to have an interest, even if their interest is not registered on title.

- It is the applicant's responsibility to determine which level of government (Federal, Provincial, Regional, County, City, Town or Township) has jurisdiction over any adjoining roads and ensure proper service of the notice. Similarly, for utility lines it must be determined if these lines belong to a local hydro or public utility commission, Bell Canada, one of Ontario Hydro's successors or the Niagara Power Corporation and the appropriate agency or owner must receive the notice.

If navigable, or possibly navigable, waters adjoin or traverse the applicant's lands, notice must be served on both the Ministry of Natural Resources and the Canada Coast Guard. If the navigable water is a harbour, notice should also be served on the particular agency having jurisdiction over the harbour, (e.g. Fisheries and Oceans Canada, Transport Canada or a local harbour commission). If the adjoining land is Crown Land, it must be determined which agency of the Crown has jurisdiction. Notices for the Ministry of Natural Resources are sent in duplicate to:

Ministry of Natural Resources  
Office of the Surveyor-General, 2<sup>nd</sup> Floor,  
P.O. Box 7000, 300 Water St.,  
PETERBOROUGH, ON, K9J 8M5;  
Attention: Jim MacIntosh, OLS.

**NOTE:** Notices should not be routinely served on government agencies that have no indicated interest in the subject or adjoining lands.

- Any other parties whom the Land Registrar or the Director of Land Registration directs be served.

It is possible that the interests of a party may fall into more than one of the above mentioned categories. In such cases, only one notice is necessary. Similarly, serving the applicant with a notice is not necessary.

If there is any doubt as to the parties to be served etc., the applicant should consult with the Land Registrar or the appropriate Regional Surveyor before proceeding. Take care to ensure that all interested parties, i.e. government ministries, agencies and municipalities, are served where easements, water boundaries, public highways and utility corridors are involved.

## Obtaining a Mailing Address or an Address for Service

The Notice of Application will be sent by registered mail to the address for service provided in the registered document under which the interest in the adjoining property was acquired or created. If no such address has been provided, the Notice of Application will be sent by registered mail to the solicitor whose name appears on that document. If neither address is given or service cannot be affected at the address provided or notices are returned undelivered by the

post office, the Land Registrar or Regional Surveyor should be consulted.

If a Notice of Change of Address for a party being served has been registered on title, the Notice will be sent the party's new address and not the one in the original document.

Where the adjoining land is a condominium property, and the adjoining lands are comprised of all or part of the Condominium's Common Elements, the Notice will be served on the condominium corporation, at its address for service set out in the Condominium Corporation Index.

### **Alternate Service**

If Notices sent by registered mail are returned, the Director of Titles or the Land Registrar may direct service of the Notice by such other method or to such other addresses as in his/her opinion would be most likely to affect service. A further period of 10 full working days would then be allowed for response by the party so served. If the directed alternate method of service was also not effective, the application could then continue without further notice to that party, subject to compliance with section 42 of the *Land Titles Act*.

As an alternate address, the Director or Land Registrar may direct that an address be obtained from assessment records or from the telephone directory for the area in which the land in the application is situated.

The Director or Land Registrar may direct that service be affected by personal service or by publication of the Notice in a local newspaper. A sample form of Notice of Application for publication is provided. (Appendix B) The solicitor shall include details of such service in the covering letter accompanying the application.

### **Notice List**

The solicitor will prepare a list of all parties entitled to be served with a Notice of Application. The list will be submitted to the Land Registrar with the application. The list will include the names and mailing addresses for all parties served with reference to the appropriate PIN or if the properties are not yet automated and are in Registry, the registration number of the deed or other instrument by which the title interest was acquired; if in Land Titles, the Parcel and Section number.

## **1.4 Objections**

## Resolution of Objections

Despite the expiry of the period for filing a Statement of Objection set out in the Notice, objections filed, or Consents and Waiver of Notice revoked anytime prior to the registration of the Application, must be dealt with as properly filed objections. The applicant, solicitor and/or the surveyor should attempt to resolve all objections.

## Withdrawal of Objections

If the applicant agrees that the objector has acquired, or is entitled to, the interest as claimed in their Statement of Objection, the draft plan and Application would be amended accordingly. If the objector is satisfied with the subsequent amendment, a written withdrawal of the objection and consent to the amended plan should be obtained. Before submitting the application to the Land Registrar, the applicant should provide a written acknowledgement concerning the right or title interest, either attached to or incorporated into a Form 4-Document General, for registration by the objector or their solicitor, on the appropriate title record.

The applicant may also choose to amend the application, by excluding any disputed lands, without agreeing that the objector has acquired any interest in them. If the objector then has no interest in, or concerns with, the lands outlined in the amended application; a written withdrawal of the objection and consent to the amended plan should be obtained.

Registering and re-serving an Amended Notice of Application and plan that has the disputed area removed and that provides an additional 30 days notice is another way of appropriately dealing with the objection. The solicitor should provide a summary of proceedings with the Application.

## Hearings

Applications with unresolved objections may be submitted to the Land Registry Office, with a request for a hearing. Staff will then review the Application and make any necessary requisitions. After the file has been given preliminary approval, with the exception of unresolved objections, it will be forwarded to the appropriate Regional Surveyor for their review.

If a hearing is required, the Regional Surveyor will arrange for it to be heard by the Director of Titles or a representative of the Director.

The Director will set a date for the hearing, allowing at least 30 days for Notice, and Notices of Hearing (Appendix F) are to be prepared and served on all required parties by the applicant's solicitor using registered mail or personal service. Solicitors wishing to summons witnesses will transmit draft copies of the summonses and a list of witnesses' names and addresses to the Director of Titles for signature.

## Hearing Results

As a result of the hearing, the Director of Titles may:

- order that the application as presented should proceed,
- order changes to the Application and/or the draft reference plan.

If the Director of Titles orders that the draft reference plan be amended, the revised plan must be approved by the Regional Surveyor in writing (not endorsed on the plan), before registration of the Application can proceed. After a decision, there is a 30 day period for filing an appeal of the Order with the Ontario Court (General Division).

If appealed, the Application will not be approved until the appeal has been disposed of and any necessary amendments to the Application or draft plan have been made. If the Court orders the draft plan amended, the Regional Surveyor must give written approval (again not endorsed on the plan), before approval of the Application for registration.

## 1.5 The Application

The Application for Absolute Title (Appendix G) attached to a Form 4 – Document General must have the Certificate of the Solicitor (Appendix H) and the Certificate of the Surveyor (Appendix I) attached. The Application requests the Land Registrar to replace the qualifiers in the LTCQ parcel with those of an absolute title (see Appendix N). Prior to registration, a draft of the Application will be submitted to the Land Registry Office for review and approval. The following materials must accompany the submission:

1. A copy of the Property Index Map.
2. Current copies of the existing Parcel Register(s) (PINs) for the subject and adjoining land.
3. A draft copy of the proposed new Parcel Register(s) (PIN).
4. The Notice List.
5. Two copies of the draft Reference Plan.
6. Duplicate registered copy of Notice of Application with draft plan attached.
7. Copies of all plans underlying and adjoining the subject lands.
8. All correspondence dealing with the resolution of objections.
9. Copies of the applicant's title documents and creating documents for any servient or appurtenant rights.
10. A Notice of Claim and Covenant to Indemnify, if necessary (see 2.0 Making and Perfecting a Possessory Claim).

11. Other material as the Director or Land Registrar may have required.

## **Submission and Registration of the Application**

The Application may be submitted to the Land Registrar, if the time has expired for filing an objection or all parties entitled to notice of the application have provided a Consent and Waiver of Notice and:

- No Statements of Objection have been filed and no Consent and Waiver of Notice has been revoked;
- All objections and revoked consents have been satisfactorily resolved and written withdrawals of all the objections or revoked consents have been obtained or,
- A letter from the solicitor, when all objections have not been resolved, outlining the action taken to resolve any outstanding objections and an indication that the matter will need to be referred to the Director of Titles (through the Regional Surveyor) for a hearing.

Once the Land Registrar is satisfied with the submission and after all outstanding objections have been resolved, the reference plan may be deposited and the Application registered, upon payment of the prescribed fee. Upon registration of the Application, the parcel register (PIN) will be retired and a new PIN created in accordance with the application.

If the Land Registrar has concerns about the Application or plan, he or she should consult with or refer the matter to the appropriate Regional Surveyor.

## **Discontinuance of Application Process**

If, after registration of the Notice of Application and before final submission of the Application document to the Land Registrar, the application is abandoned or cancelled by the owner/applicant, the Land Registrar should be advised accordingly, in writing.

If the Application is not granted by the Land Registrar or is not approved by the Director of Titles or has been abandoned, the Land Registrar will prepare and register a Notice of Discontinuance of an Application for Absolute Title. (See Appendix J)

## 2.0 Making and Perfecting a Possessory Claim

The registered owners of land converted to Land Titles with a qualified title who, before the conversion had acquired a right to claim ownership or use of, all or part of, adjoining land by length of possession or use, may claim and perfect that right and use, by applying to upgrade their title from a qualified to absolute. They do so by following the procedures set out in **1.0 Upgrading Title**, and these three additional requirements;

1. The applicant must register a Notice of Claim (Appendix L) attached to a Form 4 – Document General prior to registering the Notice of Application. It must be supported by Declarations of Possession covering at least 20 years (Note: Proof of possession for 10 years will only support a claim for possessory title). The Notice of Claim must set out the type of title interest claimed and have a registerable description of the lands prepared according to the provisions of Regulation 43/96 under the *Registry Act* (i.e. Part on Reference Plan.)
2. The registered owner, any mortgagees/chargees and any other parties with a registered interest, of the land being claimed by possession or, if any of the parties are deceased their estate, must be served with and receive Notice of Application; and
3. A Covenant to Indemnify the Land Titles Assurance Fund (Form 54, in Regulation 690, R.R.O. 1990, made under the *Land Titles Act*, [Appendix M]) must be filed with the Director.

The Application and Notice of Application forms (Appendixes G and A) must reflect the possessory claim. If the benefit of an appurtenant (together with) right of way or other easement is being claimed by pre-existing length of use, ensure that reference to it is included in all descriptions contained in all documentation and that a separate part is created on the Draft Reference Plan which clearly delineates the extent of the easement.

If the Land Registrar is satisfied that the application should be granted, the applicant can be registered with an absolute title to the land previously registered with a qualified title, or if necessary just a possessory or qualified title to the land claimed.

### Declaration of Possession

Standard printed forms of Declaration of Possession are not acceptable in support of the Notice of Claim. The declaration must set out all statements of fact and any evidence concerning the length of possession or use. It must show that the possession and/or use was actual, peaceful, continuous, exclusive, open and adverse to the use and title of the registered owner. It should also refer to physical features defining the limits of possession, such as fencing, buildings or other structures, trees or hedges, pavements etc.

Any question as to the suitability of the description of the lands under application or in the

Notice of Claim should be directed to the Land Registrar or the appropriate Regional Surveyor

# Appendix A

## *Land Titles Act*

### NOTICE OF APPLICATION FOR ABSOLUTE TITLE (Subsection 46(2) of the Act)

RE: PIN .....

TAKE NOTICE THAT ..... intends (intend) to apply to be registered as the owner(s) with an absolute title to the land described as follows:

.....  
.....  
.....

AND TAKE NOTICE THAT any person claiming to have any title to or interest in the said land or any part of it (other than an interest protected by registration) is required on or before ....., (which is thirty days from the date this notice was served) to file a statement of an objection, setting out the grounds for such objection, verified by affidavit, directed to the land registrar at the address of the solicitor at the following address:

.....  
.....

This notice is served upon you because you appear to have an interest in land that: (Check one)

- touches the limit of the land included in the application; or
- is included in the application.

Dated at ..... this ..... day of ....., 20.... .

.....  
(Signature of the solicitor for the Applicant and name in print)

# Appendix B

## FORM FOR PUBLICATION OF NOTICE OF APPLICATION

*Land Titles Act*

NOTICE OF APPLICATION FOR ABSOLUTE TITLE  
(Subsection 46(2) of the Act)

Re: PIN .....

TO: .....

RE: (Description of lands referring to the attached draft reference plan).....

The said plan is available for inspection at:  
.....

TAKE NOTICE THAT ....., herein called the applicant(s), intends (intend) to apply to be registered as the owner(s) with an absolute title to the above described land.

AND TAKE NOTICE THAT any person claiming to have any title to or interest in the said land or any part of it is required on or before (date at least 30 days after the registration of this notice and the publication of notices)\_\_\_\_\_ to file a statement of objection, which sets out the nature and extent of the interest claimed in the objection, together with all evidence, documents or legal provisions and precedents relied upon in support of the objection, directed to the land registrar at the address of the solicitor at the following address:  
.....

If no such statement of objection is filed by ....., I will proceed with the application and any interest you may claim in the subject property will be thereby extinguished and you will not be entitled to receive any further notice with respect to the proceedings.

Dated at ..... this ..... day of ....., 20.... .

.....  
(Signature of the applicant or signature of the solicitor for the applicant and name in print)

# Appendix C

## *Land Titles Act*

### CONSENT AND WAIVER OF NOTICE (Application under subsection 46(2) of the Act)

RE: PIN .....

I/We, ....., being the registered owner(s) (mortgagee(s) or chargee(s) in possession, purchaser(s) or the assignee(s) of it) of land adjoining the land shown as PART(S) ..... on the attached print of the draft reference plan hereby consent to the application of .....(name(s) of the applicant(s) as in Parcel Register).....to be registered as owner(s) with an absolute title to the land shown on the said plan as PART(S) .....

AND I/we hereby waive my/our right to a Notice of that Application.

Dated at ..... this ..... day of ....., 20.... .

.....  
(Witness)

.....  
(Signature)

# Appendix D

## SUGGESTED FORM OF LETTER TO SEND WITH NOTICE

RE: PIN .....

Dear Sir/Madam:

The applicant, whose name appears on the enclosed notice, intends to apply to be registered as owner with an absolute title to the property shown in heavy solid lines on the accompanying plan.

The notice and a print of the draft reference plan, used to define the extent of the land under application, are served upon you because you appear, according to the land registry office records, to have an interest in the land adjoining the land under application or an interest in the land included in the application. Your interest is shown in the enclosed Notice.

We suggest you examine the draft reference plan carefully to decide whether you are satisfied that the boundaries of the land under application, as shown on the plan, properly reflect the ownership and other interests being claimed by the applicant in relation to your land. In this regard, be conscious of the location of any apparent encroachments, existing structures or fences, if any, shown on the plan or any, which may exist, but are not shown on the plan.

The approximate location of your property is outlined in red on the plan and identified by the Property Identifier Number (PIN) assigned to it, the Lot and Plan or Concession numbers or the Transfer/Deed number, by which you acquired your interest. If you have any questions with respect to the location of your property on the plan or the interpretation of the plan, please contact me at ..... or the surveyor at .....

Although a Statement of Objection to the application will be admitted if filed anytime before the application is registered, if you wish to file a Statement of Objection, you should do so within the time set out in the enclosed Notice.

.....  
(Signature of the solicitor for the  
applicant and name in print)

# Appendix E

## *Land Titles Act*

### STATEMENT OF OBJECTION (Application under subsection 46(2) of the Act)

RE: PIN .....

I/We, ..... being the registered owner(s) [or mortgagee(s) or chargee(s) in possession or .....] of the land to the ..... of PART(S) ..... on the draft reference plan, and described as Instrument/PIN ..... on the said plan, claim an interest in the title to (or an easement or a right of way or other interest over) that portion of the land described as PART(S) ..... [or part of the PART(S) .....], marked on the attached print (or partial print) of the said plan.

My/Our objection or claim is based on

.....  
.....  
.....

In support of my/our objection or claim, I/we have,

- (a) attached an affidavit verifying the truth of the statements made herein; and
- (b) included copies of all documents, plans and other material on which I/we rely.

I/We request that you refer this objection to the Director of Titles for hearing unless the subject matter of the objection is resolved to my/our satisfaction.

I/We acknowledge that costs may be awarded for or against me/us in any order of the Director of Titles.

.....  
(Signature and name in print)

My address for service is: .....

.....

My daytime telephone number is: .....

Fax number: .....

# Appendix F

## *Land Titles Act*

### NOTICE OF HEARING (Application under subsection 46(2) of the Act)

RE: PIN .....

IN THE MATTER OF an application by ..... , pursuant to subsection 46(2) of the *Land Titles Act*, to be registered as the owner(s) of the land in PIN ..... with an absolute title;

AND IN THE MATTER OF an objection (or objections) thereto, filed by or for:

.....  
.....  
.....

WHEREAS notice of the above-mentioned application was registered as Instrument ..... and was served on all persons or corporations entitled thereto by ..... on ..... , 20.....;

AND WHEREAS, by virtue of subsection 10(1) of the Act, and at the request of the objector(s) and with the consent of the applicant(s), the Director of Titles has jurisdiction to hear and determine the objection(s).

THEREFORE TAKE NOTICE THAT I hereby appoint ..... the ..... day of ..... , 20...., at ..... o'clock in the forenoon (or afternoon), at ..... to hear the said objection(s).

AND FURTHER TAKE NOTICE THAT, if you do not attend at this hearing, or are not represented by counsel, the Director of Titles may continue in your absence and you will not be entitled to any further notice of the proceedings.

Dated at ..... this ..... day of ..... , 20.... .

.....  
Director of Titles

# Appendix G

## *Land Titles Act*

### APPLICATION FOR ABSOLUTE TITLE

(Subsection 46(2) of the Act)

RE: PIN .....

Notice of Application registered as No.....

To: Land Registrar, Land Titles Division of .....

I/We, ..... being the registered owner(s) (or person(s) in possession) of the following described land hereby apply to be registered as owner(s) of the land with an absolute title and to have the Parcel Register amended by:

1. Deleting the Universal Qualifiers, as set out in the said parcel; and substituting therefore, the following:

Subject to subsection 44(1) of the Land Titles Act, except paragraphs 3 and 14 and Provincial Succession Duties and except paragraph 11 and Escheats or Forfeiture to the Crown up to the date of registration with an absolute title.

2. [Deleting the Optional Qualifier regarding the rights of the owner(s) of adjoining parcels, if any, under instrument number(s)]
3. Deleting the words “Fee Simple LT Conversion Qualified” from the Estate/Qualifier field and inserting “Fee Simple Absolute”.

Description of land

*(registrable description of land, parts on Reference Plan)*

The following evidence is attached in support of this Application:

1. Certificate of the Solicitor for the Applicant.
2. Certificate of the Surveyor for the Applicant.

Dated at ..... this ..... day of ....., 20....

.....  
(Signature of applicant or solicitor)

# Appendix H

## *Land Titles Act*

### CERTIFICATE OF SOLICITOR (Application under subsection 46(2) of the Act)

RE: PIN .....

#### THIS IS TO CERTIFY THAT:

1. I am the solicitor for the applicant(s) ..... in respect of this application for absolute title and I have investigated the title of the applicant(s) and it is my opinion that the applicant(s) is (are) entitled to be registered as owner(s) of the land with an absolute title and to have the register for PIN ..... amended as set out in the application. It is also my opinion based on my review of the title that since the date of conversion to Land Titles, the Planning Act has been complied with in all dealings affecting the subject PIN and there have been no escheats or Forfeiture to the Crown.
2. To the best of my knowledge and belief, the applicant's(s') title is not subject to any claim based on adverse possession, prescription, misdescription or boundaries settled by convention, or any lease to which subsection 70(2) of the *Registry Act* applies.
3. I have discussed the application with the applicant(s) and the applicant(s) is (are) not aware of any right, title or interest in the land that is not shown in the Parcel Register.
4. Consents and waivers of notice have been obtained from all (some) of the persons or corporations entitled to service of notice. ( If applicable)
5. On the ..... day of ....., 20...., the notice of application with a print of the draft reference plan was registered as Instrument No..... and was served by registered mail or by personal service on all persons or corporations entitled thereto,(except those who have provided a consent and waiver of notice [if applicable],) at the address for service provided pursuant to the *Land Titles Act* or the *Registry Act* or at an address best suited to affect service.
6. The thirty days for filing a statement of objection have expired and no objection to the application was received.

*continued:*

or

The thirty days for filing a statement of objection have expired and an objection was filed by or for ..... and it (they) has (have) been resolved and withdrawn in writing.

*(if any objection goes to a hearing, add the following 2 paragraphs)*

The objection(s) filed by or for ..... could not be resolved and the applicant requested a hearing, before the Director of Titles, to decide the validity of the objection(s) or claim(s).

The hearing was held by the (Deputy) Director of Titles, on the ..... day of ....., 19...., [the time for filing an appeal from the Order of the (Deputy) Director of Titles has expired, no appeal was filed and all terms of the Order of the (Deputy) Director of Titles have been complied with].

*(and, if an appeal was filed, delete the words in square brackets and add the following)*

The appeal from the Order of the (Deputy) Director of Titles was heard on the ..... day of ....., 20.... and all the terms of the final disposition have been complied with.

7. There is no outstanding objection or appeal.

I UNDERTAKE to retain all proof of service, consent and waiver of notice and other evidence in support of this application for a minimum of 20 years after this application is registered and to produce it for examination if required by the (Deputy) Director of Titles.

Dated .....

.....  
(Signature of the solicitor for the applicant and name in print)

# Appendix I

## *Land Titles Act*

### CERTIFICATE OF SURVEYOR (Application under subsection 46(2) of the Act)

RE: PIN .....  
Notice of Application registered as No.....

IN THE MATTER of an application by ..... to be registered as the owner(s) with an absolute title of the land described in the application.

I, ....., an Ontario Land Surveyor, completed the survey for the plan of the subject land, a print of which plan is attached to the notice of application registered as Instrument ....., on the ..... day of ....., 20...., and certify as follows:

1. The survey for the plan is current as of the date of the registration of the Notice of Application and shows only the subject land.
2. At the time of making the survey, I examined the land and I have illustrated with appropriate ties the existence of all apparent interests in the subject land including, but not limited to,
  - (a) all topographic information,
    - (i) that forms, controls or marks the position of the boundaries of the subject land, or
    - (ii) which indicates an encroachment from the subject land onto the adjoining lands, or from the adjoining lands to the subject land; including, but not limited to,
      - (A) where apparent, all registered (and unregistered) utility lines, (overhead and buried) and any other interest affecting the land of the applicant,
      - (B) all buildings, eaves and other structures, gardens, lawns, ditches, driveways, sidewalks, paths and other improvements located in the vicinity of the boundaries of the subject land, and
      - (C) all fences in the vicinity of the boundaries of the subject land, identified as to type and showing the age, if known;

*continued:*

(b) all found monumentation, conflicting or otherwise; and

(c) all bodies of water, streams, rivers and water courses, and that the boundaries of those bodies of water, streams, rivers and water courses that form or control the extent of, or an interest in, the subject land have been re-established consistent with the grant from the Crown.

3. As a result of my examination, I found no evidence that would indicate that any person other than the applicant(s) has any right in any part of the land, except (specify).
4. .... (and) ..... was/were in actual occupation of the land.
5. All monumentation was in place, and their position marked, on the date of the registration of the Notice of Application.

Dated .....

.....  
(Signature and name in print of  
Ontario Land Surveyor who  
completed the survey of the plan)

# Appendix J

## *Land Titles Act*

### NOTICE OF DISCONTINUANCE OF AN APPLICATION FOR ABSOLUTE TITLE (Application under subsection 46(2) of the Act)

RE: PIN .....  
Notice of Application registered as No.....

Notice is hereby given that the application of ..... to be  
registered as the owner(s) with an absolute title to the land in the .....  
of ....., namely, (description of lands in the application)  
.....  
has been;

- (a) withdrawn by the applicant;
- (b) treated by the Land Registrar as abandoned; or
- (c) dismissed by the Land Registrar.

That proceedings under the Act have, therefore, been discontinued.

Dated at ..... this ..... day of ....., 20..

.....  
Land Registrar

# Appendix K

## *Land Titles Act*

### NOTICE OF CHANGE OF INTEREST IN APPLICATION (Application under subsection 46(2) of the Act)

RE: PIN .....

IN THE MATTER OF certain lands in the .....

AND IN THE MATTER OF the application made by ..... for registration as owner(s) with an absolute title, notice of which was registered in the Land Registry Office for the Land Titles Division of ..... (No. .... ) on ..... as .....

TAKE NOTICE THAT the said owner has ceased to be the owner of the said land and the said application is continued in the name(s) of ..... the (assignee, executor, or as may be) of the said ..... as applicant.

Dated at ..... this ..... day of ....., 20....

.....  
(Signature of an original applicant  
or solicitor and name in print)

TO: Land Registrar  
Land Registry Office No. .... ,  
Land Titles Division of .....

# Appendix L

*Land Titles Act*

NOTICE OF CLAIM TO OWNERSHIP OF LAND  
BY PREEXISTING LENGTH OF POSSESSION

RE: PIN .....

I/We, ....., hereby give notice that I am (we are) entitled to ownership of the herein described lands, by length of possession, and that the registered owner's (s') right to recover an interest in the said land is barred pursuant to the provisions of the *Limitations Act*.

The following evidence is included in support of my/our claim to ownership by possession:

1. Declaration of Possession of the Claimant(s). (*and, if necessary*)
2. Declaration(s) of Possession of the predecessor(s) to the claimant(s).

Dated at ..... this ..... day of ....., 20.... .

.....  
(Signature(s) of the Claimant(s)  
or Solicitor and name(s) in print)

# Appendix M

Form 54 – Regulation 690  
*Land Titles Act*

## COVENANT TO INDEMNIFY THE LAND TITLES ASSURANCE FUND

(Re: PIN .....)  
(Section 55 of the Act)

This Agreement made the ..... day of ....., 20 .....

BETWEEN:.....

of.....

- and -

HER MAJESTY in right of Ontario,

WHEREAS (*set out the circumstances giving rise to the necessity for the covenant*)

.....  
.....

The said ..... in  
consideration of.....

(*set out benefit to covenantor*)

for the covenantor, the covenantor's administrators, executors and assigns, covenants with Her Majesty in right of Ontario, represented by the Director of Titles, that the said ..... shall keep indemnified Her Majesty in right of Ontario, her successors and assigns, from and against all loss or diminution of the assurance fund under the *Land Titles Act*, or established or continued under any other Act of the Province of Ontario, in respect of any valid claim that may hereafter be made on account of the circumstances set out above and also against all costs in respect thereof and will pay such amount as anyone claiming as aforesaid may be adjudged to be entitled to recover in respect of the premises and costs.

IN WITNESS WHEREOF I (We), have hereunto set my (our) hand(s) and seal(s).

Signed, Sealed and Delivered  
in the presence of:

.....

.....

(Signature(s))

# Appendix N

## AUTOMATED PARCEL REGISTER QUALIFIERS

### A. STANDARD QUALIFIED TITLE (LTCQ)

1. UNIVERSAL QUALIFIERS: Subject, on First Registration under the *Land Titles Act*, to:
  - Subsection 44(1) of the *Land Titles Act*, except paragraphs 11 and 14 (to the date of First Registration under the Act), Provincial Succession Duties and Escheats or Forfeiture to the Crown.
  - The rights of any person who would, but for the *Land Titles Act*, be entitled to the land or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention.
  - Any lease to which subsection 70(2) of the *Registry Act* applies.
2. UNIVERSAL NOTE: Adjoining properties should be investigated to detect descriptive inconsistencies, if any, with description represented for this property.
3. OPTIONAL QUALIFIERS: The following qualifiers will be added, if applicable:
  - Subject to execution(s) [*number(s)*], if enforceable.
  - Subject to spousal rights in [*instrument number(s)*].
  - Subject to the rights of the owner(s) of adjoining parcels, if any, under [*instrument number(s)*].

### B. ABSOLUTE CONVERTED TITLE (LT+)

1. UNIVERSAL QUALIFIERS:
  - Subject to subsection 44(1) of the Land Titles Act, except paragraphs 3 and 14 and Provincial Succession Duties and except paragraph 11 and Escheats or Forfeiture to the Crown up to the date of registration with an absolute title.
2. UNIVERSAL NOTE: Remains unchanged from LTCQ Parcel.
3. OPTIONAL QUALIFIERS: These will remain if set out in the LTCQ Parcel unless specifically dealt with as part of the application:
  - Subject to execution(s) [*number(s)*], if enforceable.
  - Subject to spousal rights in [*instrument number(s)*].

# QUESTIONS and ANSWERS

**Question 1.** Do I need a new survey, if there is one deposited on title that shows the applicants lands?

**Answer** Yes, because you require a Surveyor's Certificate and the requirements are different as to the illustration of possible encroachments in the vicinity of the boundaries of the subject land.

**Question 2.** Can I include several parcels with different owners in one application?

**Answer** No, each owner must bring a separate application.

**Question 3.** Can I use one plan to bring separate applications from the different owners of contiguous parcels?

**Answer** No. The draft reference plan must show only the lands included in the application and its appurtenant rights.

**Question 4.** Can I use one reference plan and one application to apply for several non-contiguous parcels that are held in the same title?

**Answer** Yes, so long as the ownership of all parcels is the same, and they can be conveniently illustrated on the same plan. However if an objection is filed against one parcel, the others may not precede until the objection is resolved. Sometimes it is more expedient to make separate applications for non-contiguous parcels.

**Question 5.** If the lands under application are too large to be illustrated on one reference plan or if there are non-contiguous parcels that cannot be conveniently illustrated on one plan, can more than one reference plan be used.

**Answer** Yes. Care must be taken with the notice to describe the several plans attached. The same comments about objections apply from the previous question.

**Question 6.** Does the Notice have to be registered before I serve notice on interested parties or obtain consents?

**Answer** Yes, the Draft Reference Plan must be finalized and the Notice registered to show the intention of the applicant, to change the quality of the title, to anyone searching our records.

**Question 7.** Do I have to serve the Mortgagees/Chargees of adjoining lands or the applicant lands?

**Answer** You do not have to search for or serve any mortgagee/chargee of adjoining lands unless:

- There is some evidence on the title i.e. deposit of sale papers or on the ground as reported by the surveyor, that the mortgagee/chargee has taken possession of the adjoining lands or:
- You intend to claim part of the lands described in the registered mortgage or charge by your right of possession or prescription.

**Question 8.** Do I have to include all appurtenant rights to my lands, in my application and survey; even though they are already noted as servient rights on the description of other automated parcels/PINs?

**Answer** If you wish to have the appurtenant rights appear on your new automated parcel/PIN they must be included in the application, their limits must be defined and any interested parties in those lands must be served with the application. If you do not wish to apply for any registered appurtenant interests, it is preferable that you register an abandonment, release or quit claim of those rights prior to your application and survey so that there is a complete and clear chain of title for all of the subject lands.

**Question 9.** Can the Surveyor's Certificate (Appendix I) predate the Notice of Application?

**Answer** No. Since the Surveyor is certifying that the plan is current (in compliance with subsection 1(2) of O.Reg 43/96) as of the date of the registration of the Notice of Application, the certificate must be dated subsequent to the Notice.

The draft reference plan will be dated prior to or the same day of the date of the registration of the Notice of Application.

**Question 10.** If all required parties consent to my application do I still have to register a Notice of Application on title and wait the 30 day notice period before submission to the LRO?

**Answer** A Notice of Application must be registered; however if all parties have consented, the date of expiry would be left blank on the registered Notice and the

final material can be submitted to the Land Registrar immediately.

**Question 11.** How do I handle a Notice returned by the Post Office as undelivered?

**Answer** If the reason for the return is “moved, address unknown or no such address”, a subsearch must be undertaken to ensure that the proper address was used and that the parties still have the registered interest, have not registered a change of address or that a more up to date address does not now appear on title. If none of these things have transpired, you must satisfy the Land Registrar that all other means of finding an address that will effect delivery of the notice of service were attempted. If the service was to a party being dispossessed of any registered right or title, an alternative form of notice, such as by publication, will have to be given.

**Question 12.** If the proposed plan is changed to satisfy an objection, do I have to prepare a new application, notice, certificates, etc.?

**Answer** No, not if the change relates to a disputed boundary and is minor in nature. Any interested party to the altered boundary will have to sign a Consent & Waiver, with the amended plan attached or they will have to be re-served with an Amended Notice. If the date of completion of the survey changes, a new Surveyor’s Certificate must be submitted.

**Question 13.** If a property only touches my lands at a corner or a single point, do I have to treat that as an adjoiner.

**Answer** Yes. Service is required when properties touch at a point. This definition is not the same as that applied under the *Planning Act*.

**Question 14.** Which government ministry, board, commission or agency should I notify regarding unregistered interests in adjoining lands?

**Answer** The draft plan will provide a clue to which, if any, of these parties require service because of an unregistered interest. If a road adjoins, you must serve the proper road authority having jurisdiction for it. If a navigable waterway adjoins, you must serve the Ministry of Natural Resources and Canada Coast Guard. If the adjoining lands are held in the name of the Government of Canada or Ontario, you must determine locally which ministry etc. has jurisdiction over the land and serve it. If the plan shows transmission lines you must determine whether they are Ontario Hydro successors’ or that of a local hydroelectric commission or municipal power distributor and serve the appropriate authority.

**Question 15.** Can I effect service of the Notice by a courier?

**Answer** Yes, but only if the courier is prepared to sign an Affidavit of Service.

**Question 16.** Can I consolidate Land Titles LTCQ properties and other Land Titles absolute properties into one PIN?

**Answer** No, qualifiers for an **LTCQ** (Land Titles Conversion Qualified) property are very specific and you are not allowed to consolidate that type of property with a Land Titles Absolute one. If after an application you have a Land Titles “plus” PIN and an existing Land Titles Absolute PIN that abut, and for reasons of development you wish to consolidate them, you may apply and the resultant PIN will be assigned Land Titles absolute.

# INQUIRIES

For assistance or inquiries, please contact the local Land Registry Office or a Regional Surveyor at the following locations:

<b>Location</b>	<b>Address</b>	<b>Phone</b>	<b>Fax</b>
<b>Central East Region</b> Denis Blais Regional Surveyor	300 Water Street, South Tower, P.O. Box 7000, PETERBOROUGH, ON., K9M 8M5	(705) 755-1321	(705) 755-1343
<b>Central West Region</b> Regional Surveyor	200 Frederick Street, 3rd Floor, KITCHENER, ON., N2H 6N9	(519) 571-6070	(519) 571-6073
<b>Eastern Region</b> Jack Keat Regional Surveyor	51 Heakes Lane, KINGSTON, ON., K7M 9B1	(613) 531-5597	(613) 531-5598
<b>Northern Region</b> Anne Cole Regional Surveyor	199 Larch Street, Suite 302, SUDBURY, ON., P3E 5P9	(705) 564-3385	(705) 564-4354
<b>Southwest Region</b> Peter Moreton Regional Surveyor	Court House, 80 Dundas St., Unit JJ LONDON, ON., N6A 6A7	(519) 675-7615	(519) 675-7771
<b>Head Office</b> Bill Snell Regional Surveyor	393 University Ave., 3 <sup>rd</sup> Floor TORONTO, ON., M5G 1E6	(416) 314-4889	(416) 314-4878