

REGISTERED LAND SEMINAR

with Ed Williams, Chief Title Examiner

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Everything you ever wanted to know!

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Certificate Writing

- If a deed is received from the Land Court stating “Approved for description only” but does not include some of the language that is on the current Certificate, what do we include on the new Certificate?
 - Means a new plan is pending, which we do not have yet.
 - Any documents pertaining to the pending plan need to have this stamp until such time as you get a stamped deed for one of the new lots.
 - **Always bring forward everything on the face of a Certificate; only an Order of the Court puts things on the face and only by an Order of the Court do we have authority to delete items, even if it is obvious they do not affect the locus.**
- If a current Certificate includes wording such as “Subject to a Life Estate of...” or “Subject to Estate Tax of...” or such things are noted by hand on the face of the Certificate does an “S” petition need to be filed and approved before the Registry District can omit the encumbrance from any new Certificate?
 - **A Life Estate may be dropped from the face of a Certificate if there is a deed from the holder of the estate or a death certificate in the name of the holder of the estate; no “S” Petition required.**
 - **Anything else stays on the face until an Order of the Court tells you to take it off.**
 - **Note: It is no longer a requirement to file an M792 or Affidavit of Release of Mass. Estate Taxes.**
- Should a Life Estate be noted on the face of the Certificate or on the encumbrance sheet? If we find it on the face, can we erase it and put it on the encumbrance sheet? Do they need to be in both places?
 - **Always should be put on the face; this alerts you to the fact that you need that persons signature for a full conveyance.**

Certificate Writing

- Can we omit items from the face of a Certificate or an encumbrance sheet if there is a specific expiration either by statute or circumstance? (i.e. Estate Tax Lien, Life Estate, Homestead, Betterment Assessment, UCC, Attachments, Executions...)
 - **NO! No! No! not from the face of the certificate.**
 - **Yes, if on the encumbrance sheet. If not sure call Ed.**
- At times we are asked by the Court to make a note of some kind on the face of a Certificate. Should these notes be carried forward to the face of a new Certificate? Should they be included on certified copies? (example; “Issue no further Certificate for Lot 1 on Land Court Plan No. #####” or “Subject to any possible statutory rights therein growing out of the debts or settlement of the estate of John Doe, who died on October 20, 1920, if claimed and enforced within the time allowed by law.”)
 - **Notes should be typed on the face or handwritten as ordered by the Court or by Land Court personnel, so leave it.**
 - **Call Ed re: “Issue no further Certificate” notations, which are different than “Subject...possible statutory rights...”**
- If, on the Original Certificate a street is Kenny Brook Road, then on a new deed there is a statement; now known as Kinne Brook Road and in the deed description it is recited as Kinnebrook Road, how do we index this and how do we recite it on the new Certificate?
 - **We are protected by the reference to the Lot # on a plan, no matter what is on the deed.**
 - **Use parenthesis for multiple spellings instead of f/k/a or n/k/a.**
 - **Index all ways.**

Certificate Writing

- Are we allowed to correct minor errors when typing new Certificates? (i.e. spelling, punctuation, middle initials, an “e” on the end of a name or “Dianne” instead of “Diane”) Should we rely on the document that created the Certificate if the two differ?
 - **Ask why the variation at the time the doc is presented for registration.**
 - **Call Ed if you don’t catch it before it goes on record.**

- Is there a rule that the consideration amount and the excise paid should be included on the face of the Certificate?
 - **No.**

- When Recorded Land becomes Registered Land, sometimes the order states to reference mortgages that are coming from the Recorded side to the Registered side in the “as aforesaid.” They also are given document numbers and are noted on the encumbrance page. When a discharge comes in, it is also noted on the encumbrance page. Can we take it out of the “as aforesaid” or does it have to stay until it is expunged by Land Court?
 - **It stays on the face, once it’s there, even if it’s been discharged until there is a court order to remove it.**
 - **The discharge should only be noted on the encumbrance page.**

Plans

- When is a plan considered a “valid” document, such that we can register it, give it a document number, collect a recording fee and scan it for public reference?
 - **The final print complete with the statement “Separate certificates of title may be issued for land shown hereon as Lot(s) ##” and the signature stamp by a Recorder of the Court is the final plan which should not be given a document number of it’s own.**
 - **It should be indexed by case # with the letter suffix and filed with the Certificate for the first deed of a lot shown on the plan.**
 - **The owner pays the surveyor and pays a fee to the Land Court, so they or the new owner should not be charged to register the final plan with the deed.**
 - **The new plan # should be added to the face of the certificate in the appropriate spot.**
- Should a preliminary plan, received from Land Court, be registered with a document number?
 - **The working/preliminary/dummy plan should not be registered. This is only a print of the original which was submitted by the surveyor.**
- When the final plan is presented, do we register that one too?
 - **Hold the final plan until a deed is presented for the first lot sold on the new plan. If a lot has already been sold by the time you get the final plan, usually 3-5 years, file a copy of the plan with the first deed and file the original of the final plan with the certificate created by the first deed. Note on the final plan the document # of the deed that the copy is filed with.**
- Who pays the fee to register the plan(s)?
 - **No one should.**

- The ACS computer system generates smaller pages for Certificate books, 8 ½ X 14 as opposed to 9 ½ X 16 ½ . Can the engineering department generate plans on the smaller size paper? Shrinking them often makes the information indecipherable.
 - **Engineering says this can be done. Referred to George Capelianis, Engineer.**
- What should we be aware of when changing from a metes and bounds description to referencing only the Lot # on a Plan for a Certificate description?
 - **All land registered prior to 1971 falls under the derelict fee statute; metes and bounds description off a plan reciting “by the line of...” a way; which excludes the fee to the center line of the way.**
 - **Just reciting the Lot #, as we are now allowed to do, includes the fee to the centerline of the way.**
 - **Access issues or easements become a problem if the way of describing the property is changed, changing the line of ownership thereby changing the actual ownership to the centerline of the way.**
 - **The certificate should remain open (not Cancelled) if the fee in the street remains outstanding.**
- Final plans from Land Court do not provide any owners names and oftentimes are dated only by month and year. Also, they do not always indicate with which certificate they belong. When attempting to index the plans, ACS users are provided with a space for the name of the Surveyor instead of owners. How does the Land Court want Registries to index plans?
 - **Index by owner, town and streets.**

Marriage & Divorce

Current Land Court Guideline #14: Death of One Tenant by the Entirety, states “a Certificate of No Divorce, along with a Death Certificate must be filed in order for the surviving tenant to deal with the property freely without Land Court approval.” Relative to a memo from Ed Williams, effective May 17, 2004, we are no longer allowed to inquire as to whether or not tenants by the entirety are married.

- How do we obtain a Certificate of No Divorce in light of that ruling?
- Does this change the requirements of Guideline #14, when a tenant by the entirety dies but there is no indication as to whether or not they were married at the time they took title?
 - Affidavits of No Divorce are still required.
 - If you take title as tenants by the entirety, you must be married. If you are not, you are actually joint tenants, (by statute).
 - If they took title as tenants by the entirety, you should ask for a Certificate of No Divorce.
- Regarding Homesteads, must a spouse join in any release thereof? Relative to that memo, what is the effect? What do we require?
 - A spouse must join in a deed to release their Homestead claim.
 - A spouse is half of a married couple—see above.
 - Only one owner should declare. If over 62, both can declare.
 - If you give a mortgage, any existing Homestead may either be retained or a new one registered.
 - If a spouse conveys their interest to the spouse holding the Homestead, the Homestead is carried forward. If the Homesteaded spouse didn't sign the deed, they didn't release their interest.
 - Refer your questions to Ed, don't advise anyone. Refer customers to the Land Court Guidelines.

Marriage & Divorce

- Can we register a mortgage with more names on it than are on the Certificate? I was told that if it is husband and wife it is ok, but not good practice and was also told that the names on the mortgage had to match the names on the Certificate.
 - **Some banks require all who sign the note to sign the mortgage. It's ok to accept with extra signatures. It may also be because of a Life Estate or Homestead.**
- Is the Land Court taking a stand that affects any other procedures relative to same sex unions?
 - **No.**
- If a deed recites standard language "...pursuant to Separation Agreement (or Judgment of Divorce Nisi) between John and Mary Smith... filed in Probate Court Docket ###," do we need to have a certified copy of the Probate document to register on the Certificate?
 - **If a document is referred to in a document presented for registration, that document should be presented. Always ask to see the document, even if they don't want to register it, to verify that there isn't a conflict between the agreement and the deed.**
 - **Refer them to Ed if there are any questions.**
- Does the phrase "all my right, title and interest" need to be included in the deed?
 - **No.**

Marriage & Divorce

- Do we need to register a Court Order For Name Change or a Judgment of Divorce, showing a change of name therein, in order to register a document signed by a person using “now known as” or “formerly known as”?
 - **This is a gray area. Many start using a former name after divorce even if it’s not in the decree.**
 - **For a name change, the Probate Court Decree should be presented for registration.**
- Is there any instance where we need to register a Marriage Certificate?
 - **Generally, no.**
- If there is an attachment on property owned by husband and wife, and they divorce, can one sell the property to the other or to a third party? Should we allow the registration of an attachment if only one person named on the Certificate is named on the attachment? Does the attachment run with the land or the person(s)?
 - **Yes.**
 - **Yes.**
 - **The land.**

Declaration of Trust vs. Certificate of Trust

- In the past, it has been ok if a Declaration of Trust was in recorded land only. Is this still true, or does the trust need to be registered also?
 - **It's ok if it's only recorded not registered.**
 - **Include language: "...under Declaration of Trust dated ## as set forth in trust certificate executed pursuant to MGL### registered as document ###, or recorded in the ### County Registry of Deeds in Book ## Page##."**
 - **If a Declaration of Trust is recorded or registered in another county, we can accept a Certificate of Trust in lieu, but it should state where the Trust is recorded.**
- What about the new Certificate of Trust pursuant to MGL c.184, sec. 35, recorded in lieu of the entire trust instrument? Does it need to be registered if Registered Land is to be transferred to it, or can it be recorded only?
 - **It's ok if it's only recorded not registered.**
 - **Unless there is a specific expiration date noted on it, it can only be used for one transaction. A new trust certificate needs to be put on record for each transaction if there is no expiration date.**
- Is it ok to accept a deed into a trust and make out a new Certificate of Title in the name of the trust if there is only a Certificate of Trust on record?
 - **Yes.**

Declaration of Trust vs. Certificate of Trust

- How would we handle amendments, certificates, etc... to a trust if all that is on record is the Certificate of Trust?
 - **May have a new trustee certificate every time something is presented for registration relative to a trust, if needed. Multiple trustee certificates are not a problem.**
- Can a trust be a mortgagor? Mortgagee?
 - **Yes. Yes. Must register a Certificate of Trust or the trust.**
- Regarding Trusts in Recorded Land that are to be used for Land Court purposes: The attorney wants to “show” the trust (as stated in the guidelines). Should we require a Trustee Certificate stating either (a) no changes to the Trust have been made or (b) list the changes with Recorded Land references? This should be put in the guidelines.
 - **If the trust is recorded, the person should bring us the book showing the trust and anything else they have.**
 - **Land Court does not recognize a wind-up term for a trust which specifies a specific term, which has expired (span of a life or a specific date). A Court order must issue for all disbursements or sale for a trust which has expired.**

Declaration of Trust vs. Certificate of Trust

- Can an individual reserve a Life Estate when the deed is going into the trust? Also, can an individual reserving a Life Estate take out a Declaration of Homestead?
 - **Yes. Yes.**
 - **Anyone who holds a Life Estate can declare a Homestead, no matter who is the owner of record.**
 - **A trustee cannot reserve a Life Estate or declare a Homestead on the trust property.**

UCC Documents

- UCC's currently require the signature of the debtor. Is it likely that this requirement will go away as in Recorded Land?
 - **Possibly; see new guidelines for any changes in requirements.**
- The latest guideline states if the UCC is ancillary to the mortgage, continuation statements are not necessary for the life of the mortgage. It does state that the UCC must be filed simultaneously with the mortgage. What if the UCC is filed at a later date? Would the same rule apply?
 - **If the UCC is filed at a later time or date, continuations & amendments must be filed.**
- Regarding multiple trustees: Does the recording party need to list ALL trustees on the UCC, and if so, do we charge them for each additional trustee name after 2?
 - **Look to the trust for required signatures.**
 - **Recording fees are determined by the registries not by the Land Court.**

Mortgages & Banks

- If someone presents a Subordination Agreement with a new mortgage that is being subordinated to, does the subordination have to go on record after the new mortgage?
 - **In the order presented...it doesn't matter.**
- If we know that a bank/mortgage company has changed its name, as evidenced by a recorded or registered document, should we refuse documents presented under the old name if they are signed after the change took place? Are we expected to keep track of the status of all banks?
 - **We should refuse.**
 - **We should not keep track of bank status, the presenting attorney should show documentation of the name change. If they don't and it gets on record, if there's ever a problem, the attorney straightens it out by filing an S Petition.**
- Can we rely on a change of name or merger document that has been recorded, but not registered? Does it have to be registered too?
 - **Yes.**
 - **It doesn't have to be.**

Mortgages & Banks

- If a document is presented, relative to a mortgage, and it states “successor by merger” or “formerly known as,” can we rely on that statement or do we need to have the documentation?
 - **Need documentation and it should be registered as a separate document if it’s not already on record somewhere.**
- Is it our responsibility to check through our document index for documentation of name change or merger or is it the responsibility of the person wishing to record to provide us with the documentation they have found?
 - **It’s their responsibility.**
- If a name change or merger document is registered to a specific Certificate, can it be used as a reference for future documents not related to that Certificate?
 - **Yes.**
 - **The first person to register it pays the fee, all others who subsequently use it get free notations.**

Mortgages & Banks

- Does a mortgage stay on the encumbrance sheet and continue to be brought forward if 50 years have passed?
 - **Yes. It requires an “S” petition to remove. Registered Land is excluded from the 50 year statute.**
- Regarding MERS: where MERS is the nominee for the lender on a mortgage, from whom should we accept an assignment or discharge? Should we list the lender and MERS, as nominee, or just MERS on the encumbrance sheet “In favor of?”
 - **Assignments or discharges must come from MERS only.**
 - **List MERS only, not the underlying lender, unless the lender signs as an agent of MERS.**
- Mortgages recorded in error, instead of being registered, if not caught right away, need Land Court approval before we can register them. Could there be any leniency in allowing registries to bring the mortgage over to a Certificate as long as no other documents have been registered?
 - **A new guideline coming, but until then, if it is attorney error, an “S” petition must be filed unless it has both recorded and registered land on it. If it has both lands, the original should stay in registered land and a certified copy should be put in the recorded land records.**
 - **If it’s a registry employee error, call Ed.**

Mortgages & Banks

- If a mortgage is recorded when it should have been registered, but is from an unreachable entity, can we register a certified copy as soon as we discover the error?
 - **No.**

- Can an affidavit regarding delayed filing of mortgage be attached to the mortgage?
When is an affidavit regarding delayed filing required?
 - **Yes. Make sure the institution is still a viable corporation or entity and the mortgagors are still living. If either is not the case, call Ed.**
 - **The same as with stale deeds.**

- Votes of Authority: do we still need to be concerned with this? If so, would it be possible to compile a list to be posted on the Web or sent to each Registry?
 - **Yes.**
 - **No.**

Bringing Encumbrances Forward

- A mortgage on a large parcel of land was carried forward to several Certificates after the property was subdivided. When a discharge was presented for the mortgage, the attorney only wanted to note the discharge on the Certificate of Title for his locus, not on all the other Certificates. Shouldn't the discharge be noted on all relevant Certificates? Does an attorney (or anyone recording) have the authority to give us that direction?
 - **No, it does not have to be noted on all relevant certificates.**
 - **The recording person does have the right to tell us where they wish to have their document noted.**
- Do we carry forward Lis Pendens? Does it run with the land or the person? Should we accept deeds of conveyance for property under such notice?
 - **Yes, do carry them forward. They run with the land.**
 - **It is ok to accept a deed for property under a Lis Pendens (because it usually means there has been some kind of judgment, to resolve the issue, although we have not yet been presented with the Order). You might inquire as to whether they have a Court Order resolving the issue.**
- If a deed recites an encumbrance that a parcel of subdivided land is no longer subject to (an easement, restriction, etc...), do we ignore the reference or should the recording attorney delete it and initial the change? Does it have to be carried to the new Certificate? This usually happens with a subdivision where you can easily see by looking at the new plan that the encumbrance does not pertain to the individual lot.
 - **If it's on the current certificate, bring it forward. If there is language in the deed stating that something no longer affects, ignore it. If it's not in the deed, bring it forward anyway.**

Bringing Encumbrances Forward

- Which Assistant Recorder's name should be used when attesting document entries that are being brought forward to a new Certificate (initially attested by a former Register)? The Register at the time the document was taken in or the current Register? Can you interpret MGL c.36 sec. 10? Is it possible for the ACS system to accommodate more than one signature?
 - **Cannot interpret the statute ☹**
 - **Cannot answer the question, but should not affect validity of title either way.**
- Some Registries have the practice of not canceling a Certificate when property is sold, but waiting until all outstanding mortgages, etc... are taken care of. They are of the belief that we are not supposed to note anything on a cancelled Certificate? Some immediately cancel the Certificate and bring forward all outstanding items. Which method is correct?
 - **If you register a deed, cancel the certificate and bring forward all active encumbrances. Don't cancel if a fee interest in the street is still there. Don't add any more items to a cancelled certificate unless you are instructed to do so by the Court.**
- Can we now cancel these old Certificates if we follow through and make sure all outstanding items have been brought forward?
 - **Yes. Yes.**

Order of Conditions

- Orders of Conditions, along with any relative Partial Certificates of Compliance, Extensions or Certificates of Compliance, should be carried forward until there is an Order of the Court, because we cannot always determine whether or not all conditions have been satisfied, even if there is a Certificate of Compliance, correct?
 - **Correct, unless you can tell for sure there are no surviving conditions. Take all documents for registration, then decide afterwards whether or not to carry forward. If in doubt, carry forward.**
- Should we inquire as to any ongoing conditions?
 - **Yes.**
- Should Orders of Conditions be signed by a majority of the commission or by a majority present at the time of issuance? Should we inquire as to how many members each board has? Should we require as standard language “the above signatures constitute a majority”?
 - **Ed does not know the answer to either.**

Leases and Notices of Lease

Re: Guideline 27... Leases and Notices of Leases: “A lease or notice of lease of less than all of the land described in the Certificate of Title may describe the leased premises in words or by reference to an attached plan or drawing which need not be approved by the Land Court engineering department.”

- How do we determine when a plan is needed? If the leased premises are described in words, how specific does it need to be?
 - Use common sense. A sketch is ok if it includes the floor # and the suite #. A plan or sketch is not required if the written designation is specific enough to describe the space.
- Does it need to be a metes and bounds description, as in the case of land, or can it state apartment # or condo # and an address?
 - It can state by #'s.

Deeds

- Must Land Court approve fiduciary deeds of any kind before we can accept them for registration? (executor's deeds, administrator's deeds, heirs, guardians or conservators deeds)
 - **YES! Attorney must submit required documents to Land Court...see Guideline #14.**
- More than 2 people are registered owners; when a conveyance is made by one of the owners to the other(s) or to a third party, do we;
 - 1.) Issue a new Certificate in only the name of the newly added owner, not cancel the existing Certificate and note the deed on the encumbrance sheet of the existing Certificate?
 - 2.) Cancel the existing Certificate of the original owners and issue a new one in all the names?
 - **#2 option is correct.**
 - **When only a percentage of an interest or only one owners' share is conveyed, make a notation deed on the encumbrance sheet. If a deed then comes in for the 100% interest, you may accept it if there is absolutely no doubt that it is for the full interest. If there are any questions, refer to Boston. If there is more than one notation deed an S Petition needs to be filed.**
- Deeds and mortgages cannot be accepted for registration if over a year old, without the proper affidavit. Are there any other documents that cannot be accepted after one year has lapsed?
 - **Restrictions & easements. Also anything executed by a prior owner, contact Land Court.**

Deeds

- When Land Court stamps a deed for “approval of lot description only”, the document still needs to be checked by the recording clerk, correct? The same applies when a document is stamped for Executor’s signature or any other reason, correct?
 - Correct.
 - **Correct. Land Court checks all authority & all probate issues for fiduciaries.**

Computer Related Issues

- Does the Land Court have any objection to displaying and printing all Registered Land documents, including Certificates, from public computers in the Registries or on the Internet?
 - **The Land Court leaves this up to the registries.**
- Should we be darkening the Land Court seal on Certificates prior to scanning?
 - **The Land court leaves this up to the registries.**
- Please comment on electronic filing and its effect on Registered Land. Do you foresee any problems?
 - **As of now, only the DOR, Secretary of State and Federal and State tax releases can be accepted with electronic signatures.**

Computer Related Issues

- To accommodate the scanning system provided by ACS, or any scanning system for that matter, we would like to ask that all documents from the Land Court be signed, stamped and/or sealed with black ink instead of blue or red. This applies to all documents, not just Registered Land documents. (Orders of Notice, etc.)
 - **Land Court personnel will make the effort to do this. A statewide requirement would have to come from the Secretary of State.**

Land Court Guidelines Manual

- In future versions of the Land Court Guidelines, can there be less legal language? Much of it now seems to be written for attorneys; it's hard to tell where we draw the line as far as dispensing legal advice or being title examiners. At times our roles are not clear as to whether to advise an attorney to call you or do it ourselves. Is an updated version in progress?
 - **Call Ed.**
 - **Updating in progress.**
- Could we have a current list of Land Court contacts, i.e., Engineering Department, Condo Department and Foreclosure Department?
 - **It's always ok to call Ed first...he'll direct you whom to contact.**
 - **Foreclosures—Mel Karas 788-7409**
 - **Tax (liens)—John Harrington 788-7480**
 - **Plans—Deputy Chief Engineer (subdivision) Tom Pontbriand 788-7464**
 - **No condo department**
 - **Check out the website: www.mass.gov/courts/courtsandjudges/courts/landcourt/index.html**

Miscellaneous Questions

- In Registered Land, we retain all original documents. Will this ever change? Some Registries store them off site, where they are accessible within 24 hours.
 - **No change foreseen.**
 - **Storage problems can be addressed on an individual basis. There is no statute.**
- Is there a standard for filling in the Terms field on the encumbrance sheet or is it up to our discretion? (Example: for a mortgage, is the \$ amount and Lot # enough?)
 - **Lot # and Plan #, also.**
 - **Communicate with other registries.**
 - **There is no statute. It is up to our discretion.**
- When documents are Recorded instead of Registered, what are the guidelines for Registering them? Is there a certain timetable for certain documents? Are there some documents that we cannot register without permission from Land Court?
 - **Call Ed...an S Petition is usually needed, but there may be exceptions.**
 - **For some documents, certified copies are ok to register; such as a mortgage discharge which contains both recorded and registered land, if the recorded discharge contains the registered land document number.**
 - **Deeds MUST ALWAYS BE ORIGINAL. An S Petition would have to be filed before a certified copy of a deed could be registered.**

Miscellaneous Questions

- What is the difference between “Withdrawal from Registration” as opposed to “De-Registration”?
 - **They are the same thing. Withdrawal from Registration is the proper terminology.**
- A person signs one original Power of Attorney document, granting powers for all issues that should arise when he/she is gone or unavailable. The recording party, therefore, needs the original document back. Can we make a copy once it is on record, certify it and give the original back to the person?
 - **No.**
 - **Record the original...register a certified copy; that way they get the original document mailed back to them.**
 - **You need an affidavit every time the power is used or one affidavit with reference to more than one transaction.**
 - **Death terminates the power, so you must stop if the person is dead.**
- There is no guideline in our manual for Notices of Contract (Mechanics Lien). Are there guidelines?
 - **See Guideline #36.**
 - **No votes or authority are needed for signatory.**
- Should we be keeping an “Attachment” book?
 - **No.**

Miscellaneous Questions

- Should we be keeping a “Bankruptcy” book?
 - **No. Ed has to approve all bankruptcy deeds or anything to do with bankruptcy or hints thereto.**

- Should we be keeping an “Owners” index? The ACS system allows for indexing according to “Owner”, “In favor of” or “Both.”
 - **Owners Index.**

- A land owner grants to the Board of Health a restrictive covenant on his property regarding only the building (limit two bedrooms), in order to obtain a building permit. Only the land owner signs the covenant. Should the town also sign? Can someone restrict his or her own property? Would this covenant run with the land and need to be carried forward to new certificates until further Order of the Court?
 - **Towns have made up the forms required...the benefited party is the town by implication, so often the town will not sign.**
 - **It does run with the land and therefore does need to be carried forward.**

Miscellaneous Questions

- Is it still necessary for us to send postcards of notification to owners when we receive liens for Registration (under Chapter 185, Sec. 79)? (*Repealed 1996*)
 - **NO.**
- Must we continue to make paper Certificate books? Some of us have the capability of word processing so the Certificates are on our computers.
 - **Yes.**
- Should all documents that can stand alone be registered as separate documents?
 - **Yes...however, things that do not pertain to anything else can be attached.**

Miscellaneous Questions

- If Wetland Determinations are only good for 2 years, can they be dropped or noted as “expired by their own terms”?
 - **Could not find statute.**
 - **If referenced on a Certificate, keep bringing it forward, if unsure, always bring forward.**

- If any transfer of interest, either fee or equity, eliminates a Homestead which has been filed, should we be alerting owners who present documents which would void their Homesteads?
 - **No.**

- Do we cancel the Homestead on the encumbrance sheet?
 - **No. Let the attorney determine its status, priority and/or validity at any given time. If it is properly terminated (by deed), we may drop it from the new certificate.**

Miscellaneous Questions

- 6D Certificates: Barnstable has over 370 condominiums. When a 6D Certificate is presented for recording, how much responsibility should the recorder take regarding the trustee(s) signing the document? Do we need a vote? Do we need something on record regarding the election of this particular trustee? Or, do we just put it on record assuming that the trustee signing has the authority to do so?
 - We do need to establish the authority of those signing. If no trustee certificate is on record stating who the condo trustees are, do not take it.
- Condominium Deed that includes Parking Space: Should the certificate of title show anything reflecting ownership of the parking space? Some of these condos later trade one spot for another, sometimes the next deed out does not mention the parking space, etc... It seems better not to include the parking space on the face of the certificate, but a definite Land Court answer would be helpful.
 - The Master Deed assigns parking spaces so they should be recited in the deed. Put it on the Certificate of Title if it states that it cannot be severed. It should be continually brought forward even if it's not in the deed, since there is no separation allowed.
 - Additional spaces acquired later go on the encumbrance sheet.
 - The Master Deed rules.
- First unit deed out of Master if not on Land Court form needs to be approved. If the form is similar & has all the info we require, can we accept it without approval?
 - Yes.
- Should the plan attached to the unit deed show adjacent unit(s) and all be on the same page?
 - Statute says it should show adjacent units, but practice has not required it; sometimes there is no adjacent unit. Don't need to state "no adjacent unit" and doesn't all need to be on the same page.

Miscellaneous Questions

- Is it necessary to have an LLC certificate if there is no mortgage?
 - **No...if not signing anything, there's no need.**
 - **Yes...when a document is executed.**

- Power of Attorney: When taking on record a specific Power of Attorney (say for a mortgage being signed under power), and the Power of Attorney is signed within a week of the document being executed under power, is it really necessary to attach the Affidavit regarding the Power of Attorney (“still in full force and effect...”) to the document being registered?
 - **YES! Always! No time limit.**

- When we find something that needs to be corrected or re-done by an attorney, and we just can't get them to do it in a timely manner, what do we do? Turn them in to Land Court?
 - **Call Ed.**
 - **Don't issue a new Certificate.**
 - **Note on the current Certificate that something is needed.**

Miscellaneous Questions

- How are registries handling Life Estates? The person reserving the life estate does not get indexed as a grantee, however, if a mortgage or homestead is taken out, his or her name is entered as a grantor. Is the information in the attached memorandum from Margaret Cronin dated February 20, 1996 (See last page) still in use?
 - **Yes, the memo is still in effect. The face of the Certificate should recite the following, “Subject to the rights, powers and interests reserved to _____ in document ##, any of which may be exercised without notice to, or assent from, the above named owners or their assigns,” if that language is used in the deed.**
- Why aren't Mass State or Federal tax liens put in registered land?
 - **They belong on the recorded side under statute.**
- Is an Order of Conditions supposed to be noted in the body of a Certificate?
 - **No. It should be on the encumbrance sheet.**
- Should we take an M792 or Affidavit of Release for a trustee?
 - **Not for a trustee; should be for the beneficiary.**
- Notice of Contract, Statement of Account, Complaint and Discharge of Lien are on record. Do we need a Clerk of Court Certificate to remove because of the complaint from the court?
 - **Always need a judgment or dismissal from the court.**