

Land Registration — What, When, Who, Where, Why?

The Property Online Help Line (1-866-518-4640) receives more than 90 calls per day from various users and the general public.

Service Nova Scotia and Municipal Relations Help Line staff members are trained to assist with callers' procedural questions, not legal questions. Questions related to legal reasoning or statutory interpretation are redirected to the Registrar General or to the RELANS List Serve. Calling the Registrar General or RELANS directly with a question of a legal nature will save time and limit possible frustration for both the caller and Help Line staff attempting to help the caller.

Here is a list of the most frequently asked questions from all regions.

When do I use Part 2 of Form 8, and do I need to use it when registering a benefit that has been on my parcel's title for the entire search period?

Form 8 Part 2: This is for use only when adding a new benefit to an LR parcel, over an unregistered parcel (i.e. after initial conversion). It is not for use when preparing your original certification where the benefit exists at the time the AFR is completed.

What does the "official report" from Property Online mean in the regulation that requires that the official description be included in the bundle?

This can be either an official report as requested from the Property Online database, or a copy of the notification of PDCA approval. Either is acceptable. To request an official report from the data base, click the Query User Options on Property Online [Search Parcel Description Database by PID (including historic descriptions)].

What is the difference between MGA compliance statements #(i) & #(v)?

Statement (i) is for use when there were subdivision requirements in place at the time the subdivision occurred, but those requirements were not followed. The validation section of the MGA forgives non-compliance with subdivision requirements where the parcel appeared in a registered instrument prior to April 16, 1987.

Statement (v) is for use when there were no subdivision rules or requirements to ignore – the parcel was created prior to subdivision control.

The compliance statement that best describes how the parcel description complies with Part IX of the MGA should be used. The lawyer must determine, based on the title search, which statement correctly describes the parcel that is being migrated.

If my parcel is on an approved plan, do I use the validation option on the MGA compliance statement?

No, use compliance statement (ii), which details the approval and gives the plan reference.

What do I do on an AFR when I am satisfied that a burden exists (because it is shown on a plan, like an NSPI easement) but the search reveals no grant? How do I put the burden on the AFR?

Use the unregistered instrument option on the AFR subscreen (i.e. choose "Yes" when asked if it is unregistered). You will then not need to list a book/page or document reference. This should be coupled with a Textual Qualification that gives the plan reference where the burden appears.

Do I need to list easements over a condominium common parcel on the AFR for an individual condo unit?

Yes. The condominium common PID is not a standard PID in that it represents the common interest appurtenant to the individual units. By regulation, the Condominium Common PID is the repository only for the Declaration, Bylaws and amendments to them. All else goes in the individual unit registers. This is for ease of identification of interests that affect the units or that need releasing (e.g. developers' mortgages).

Do condominium unit PDCA's include all the benefits and burdens that will appear on the AFR, like with any other parcel?

No, this is the one exception to the requirement that benefits and burdens on the PDCA and AFR need to match. Condominium unit PDCA's must only contain those items outlined in LR Administration Regulation 5(8):

(8) When the legal description submitted for PDCA approval relates to a unit as defined in the Condominium Act, the description must contain only

- (a) the name of the County where the condominium corporation is situated, together with the condominium corporation number as assigned by the registrar of condominiums;
- (b) the description for the unit as detailed in the condominium declaration;
- (c) a benefit, using the following wording: "together with the common interest appurtenant thereto";
- (d) a burden, using the following wording: "subject to the Declaration and By-Laws (remove reference to By-Laws if none have been registered) of (insert county initial[s]) CC No. (insert condominium corporation number)."

If I can add benefits to a parcel's title by using the words "together with..." why can't I use "subject to..." on burdens?

AFRs can use the "together with" wording for benefits but (except for restrictive covenants, protective covenants or building restrictions) the interest holder cannot be listed as "subject to" because benefits always attach to the current owner of the parcel, whereas burdens are held by a named interest holder (e.g. Nova Scotia Power Incorporated).

I have heard that a new protocol is being followed on AFRs with estate interests. What should the AFR now show?

A new AFR protocol is now in use. For wills that are under the old Probate Act, (i.e. dated prior to October 2001 with no codicil after that date), where there is no direct devise, the AFR should list the estate of the deceased and the personal representative as the registered interest holders in the parcel. For wills under the amended Probate Act the personal representative is the registered interest holder.

How do I put a burden on a non- LR Parcel?

Attach the document that is creating this burden to a Form 44, which will be recorded in the Traditional Registry System.

What if I don't know the address for an interest holder?

The mailing address for all interest holders is a requirement under Section 4 (1) (a) of the Land Registration Act. All available resources must be utilized to obtain this information.