

Updated: April, 2012

Module 3 Checklist for Staff

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1) Registered Interests

- a. All names are the same as Property Online or a comment has been made (If staff believe that the name represents the same person, they would approve, e.g. J Susan Jones and Susan Jones would be considered to be the same but J Susan Jones and Susan White would be rejected without a comment provided).
- b. If it appears that there are multiple names that represent the same owner (e.g. Jennifer Lynn Smith and Jennifer Lynn Jones) without the use of the qualifier otherwise Known As, the AFR should be rejected. The rejection comment should ask for clarification on whether these names represent one person or not. The lawyer should show the legal name as the fee simple owner without a qualifier plus any other variations with the qualifier Otherwise Known As.
- c. Any Estate of registered owners are enabled by a deed where Estate of .. is the Grantee on the deed. Exception: If the Grantee is an individual (no mention of 'Estate'), then the lawyer must provide a comment that the individual is deceased, that proof of death is available, and that Probate has not yet been opened. If a comment has not been provided, the AFR must be rejected.
- d. Carrying on business as, or a name of a Trust, or the name of a Partnership (other than limited partnerships) has not been used as a fee simple owner or as part of a registered owner name. **Note:** This does not include fee simple owners with a qualifier of Trustee, Trustees of a Church, or a Trust Company. Partnerships cannot be shown as a fee simple owner unless it is a limited partnership (this should be able to be ascertained by the name of the partnership or by the identification of the entity being a limited partnership after the name on the document).
- e. Any additional owners shown on a parcel (usually appear as in care of) with Nova Scotia Farm Loan Board / DVLA as a registered interest also appear as Grantees on the deed shown as the enabling instrument. Nova Scotia Farm Loan Board Occupiers now have a separate field on the AFR.
- f. Registered interests are enabled by instruments which can transfer an ownership interest (e.g. deeds, probate documents, condo declaration, court order-transferring, etc.)
- g. None of the following documents have been used as an enabling instrument: boundary line agreement, plan, notice of approval of a plan of subdivision, repeal of a plan of subdivision, statutory declaration re defacto consolidation or instrument of subdivision.

- h. If a statutory declaration is used to enable registered owners, the statutory declaration relates to possession or is making an election under the Intestate Succession Act.
- i. Last conveyancing document shown on Property Online is used as an enabling instrument for a registered interest or a comment has been made. (If no conveyancing documents appear on Property Online, no comment is required. In addition, if a lawyer is using a more recent conveyancing document than what appears in POL, no comment is required).
- j. **The enabling instrument for the registered interest must be recorded in the migrating county (i.e. a deed cannot be used from another county).**
- k. There are complete mailing addresses (using one of the following: civic address, RR#, PO Box, Site # or General Delivery) for all interest holders (individuals or companies, this does not include PIDs, Together with... , etc) that appear on the draft AFR or a comment has been made to explain why address is not included (e.g. company has gone out of business and there is no mailing address available).

2) All Document References

All document references shown on the draft AFR match the Property Online GGI with relation to the following: book/page (if applicable), document # and registration date.

Notes:

- 1. The lawyer should be providing the actual document number as it appears on the document. In a case where the GGI shows an arbitrary document number, the staff will correct the document number in Maintain Historical Documents. If it is a document which is older than our electronic GGI and there is no document # issued, the lawyer is to submit a 0 (zero) as the document number. The lawyer may be submitting a date such as 16-01-82 where the Property Online GGI shows 01-01-82. This is not a cause for rejection as imports of the GGI data were dated either the first of a year or the first of a month. If there is a day, month and year registration date in Property Online which differs from the draft AFR, the draft is to be rejected.
- 2. If the document submitted on an AFR has been recorded in one of the dead districts (former registries - St Mary's, Parsboro, Chester, Barrington), the submitter has included the three digit prefix in front of the document number. If not, the AFR must be rejected as LIN-NS will not recognize the document and a skeleton document will be created.

3) All Instrument types

- a. All instrument types shown on the draft AFR match the Property Online GGI. (We are only to reject if it is an obvious error, document is shown as an easement when it is, in fact a deed. We do not reject if the lawyer is showing option and we have agreement, etc. If we show Other Instruments, go into Maintain Historical Documents and correct our type before approving the AFR. If we don't correct the document type in Historic Documents, the system will ignore the document type indicated by the submitter and leave what is currently shown in the GGI).
- b. All interest types shown on draft AFR make sense with the type of instrument. (e.g. Easement / ROW Holder (Benefit or Burden) are often enabled by a deed which is perfectly appropriate in this situation).
- c. An instrument type (Form 8A Notice – code 407) cannot be used to enable any interest on the AFR. The 8A is only a notice under the Registry Act that is placed in the GGI to ensure that a search of the named land owner's parcel will include the notice and require the searcher/lawyer to go to the parcel registers identified on the 8A. It is the lawyer's

responsibility to determine the effect of the interest on the non-LR parcel and add any appropriate entries on the AFR, using the appropriate document reference (not the 8A), that enables the interest on this parcel.

4) Benefits and Burdens

- a. All benefits and burdens shown in parcel description appear on draft AFR in the appropriate category or as a TQ. If the wording is such that the burden/benefit DOES apply, then it must also be in the description. If the wording is such that the benefit/burden MAY POSSIBLY apply, then it can't be included in the description.
- b. If a benefit/burden is described only by reference to a Book/Page or Document #, then the AFR must reference the same enabling document. If the benefit or burden is described full text (includes what the benefit or burden entails, a book and page reference if present, is not a reason for rejection).
- c. Correcting description required flag has been set if benefits and/or burdens appear on draft AFR and are not included in parcel description.
- d. If a benefit is included, it is shown as Together with and includes the correct corresponding interest type.
- e. If a PID is shown as a Servient Tenement PID or Dominant Tenement PID, it is not the PID that the AFR has been submitted for.
- f. There are not multiple references to the same easement benefit or burden with the same book/page or document / year reference and interest holder name. Note: If a submitter insists on submitting multiple identical references, refer the AFR to Head Office for review.
- g. If restrictive covenants are shown on the draft AFR, Subject to Restrictive Covenants (see other acceptable variations for covenants and restrictions shown as Subject to... under the next bullet) is shown on the draft AFR with the interest type of Covenant Holder – Burden.
- h. Nothing other than the following has been entered as a burden: PID #, individual or enterprise interest holder name, various owners or any of the following:
 1. Subject to Restrictive Covenants
 2. Subject to Protective Covenants
 3. Subject to Building Restrictions
 4. (Subject to)General Utility Easement / Owner Unknown
- i. Use of Various PIDs/Variation Owners for a Benefit or Burden:
 1. Staff must ensure that a comment has been made that advises that the RG has granted permission to use 'Various PIDs/Owners'. If a comment has not been provided, the AFR must be rejected and the submitter advised as follows: "Have you obtained permission from the RG to use "Various PIDs" as required under Regulation 17? If so, please provide a comment that advises the date that permission was granted by the RG."

AND

Staff must ensure that a textual qualification is in the AFR, providing additional information about the benefit/burden on the parcel being registered and cautioning that the corresponding benefit/burden may not be shown in the parcel registers of other affected "flip-side" parcels.

OR

2. The 'Various PIDs/Owners' entry must either relate to a condo unit AFR or to a STP/DTP that is a condo unit parcel. The RG's directive dated Aug. 31, 2009 stated that there is a blanket 'various PIDs' exemption for corresponding benefits/burdens that affects units in a condominium corporation, and that in this case permission from the RG is not required. The submitter may or may not provide a comment to advise of the above. If a comment has not been made, staff will confirm either that the AFR is for a condo unit or that the 'Various PIDs' entry relates to a condo unit (STP/DTP). This would only be apparent by a statement in a TQ which explains that the 'various PIDs' entry relates to a particular condo corporation.

AND

Staff must ensure that a textual qualification is in the AFR, providing additional information about the benefit/burden on the parcel being registered. If a TQ has not been provided, the AFR must be rejected.

Note: A name of a Trust has not been used as an interest holder or as part of an interest holder's name. (Exception: a Trust Company). Only the trustees can be shown as interest holders. This is based on subsection 28(1) of the LRA. **This does not include names with a qualifier of Trustee or Trustees of a Church.

- j. **Enabling document for the benefit/burden is recorded in another county: If a benefit or burden is enabled by a document from another county - the only thing that staff will check for is that the instrument type is a Deed or Certificate of Title (which is acceptable). If the enabling document is a grant of easement, then this is not acceptable. The lawyer must be advised that the easement document must also be recorded in the migrating county so that it can be used on the AFR to enable the interest.**

- k. **Development Agreements & Amendments to Development Agreements:**
SEE: [Development Agreements](#)

5) Recorded Interests

- a. If there is an assignment as an enabling instrument (other than an Assignment of Leases and/or Rents **or a General Assignment of monies that isn't an assignment of a mortgage**), there must be another interest holder on the AFR that has "Interest Assigned" as the interest holder name. Note: Some lawyers also change any documents related to the instrument being assigned to "Interest Assigned" such as amendments, postponements, etc. This is also acceptable.
- b. Any recorded interest that is enabled by a statutory declaration must be escalated to Ops Support for review by Land Programs, prior to the AFR being pre-approved.
- c. An Agreement of Purchase and Sale is not being used as an enabling interest in the recorded interest section.

- d. A name of a Trust has not been used as an interest holder or as part of an interest holders name. (Exception: a trust company). Only the trustees can be shown as interest holders. This is based on subsection 28(1) of the LRA.
Note: This does not include names with a qualifier of Trustee or Trustees of a church.
- e. **If a judgment has been added to the AFR, staff must check the GGI to see if it is associated to a judgment renewal. If a judgment has been renewed, both the judgment and the renewal document must appear in the AFR or it must be rejected.**
Note: If only the renewal appears in the AFR, then staff must reject with a request that the submitter add the related judgment document to the AFR .
- f. **Development Agreements & Amendments to Development Agreements:**
SEE: [Development Agreements](#)

6) Textual Qualifications

- a. There are no textual qualifications listed which should appear as a benefit or burden under the appropriate section. (If the lawyer is naming an interest holder and document, this should be entered under the appropriate section and need not appear as a TQ. If the lawyer is naming an interest holder but does not have a document, this should be entered as an unregistered interest but it does not have to be. This is up to the lawyer to decide. This would include General Utility Easement – Owner Unknown).
- b. Comments made in Comments field do not belong in Textual Qualification field. (If the lawyer has provided Comments which appear to be something they wish to display in the parcel register, we would reject and advise that this information will disappear when we approve and needs to be moved to the TQ field).
- c. An agreement of Purchase and Sale is not being used as a Textual Qualification.
- d. All textual qualifications (**note exceptions below**), are to be reviewed by the Registrar and escalated to Ops Support for review by Land Programs prior to pre-approval or rejection. Until Land Programs has an opportunity to review the TQ, the AFR is considered "on-hold" and the lawyer should be notified. The 24 hour turnaround time requirement stops at this point. Staff should not be contacting Land Programs to remind them of the 24 hour turnaround time.

***NOTE: If staff should ever doubt the acceptability of a TQ, they should always escalate for review.**

EXCEPTIONS - TQs that relate to the following do not have to be escalated:

1. **Foreclosure Orders:**

- The Foreclosure Order (412) must be a recorded interest on the AFR
- Interest holder name must be the party that foreclosed.

2. **Access is over other lands owned by same owners:**

- Parcel Access Type must be other, private (other), or no access
- No access benefit is enabled on the AFR or if there is one it is representing a different benefit than the one referenced in the TQ.

3. **Assignment of Bankruptcy:**

- Assignment of Bankruptcy must be in the parcel register

4. **Possession:**

- If statutory declarations that relate to possession are referenced in the TQ, these declarations must be included in the registered interest section (not recorded interest section) of the AFR.

5. **Deceased Owner:**

- If any reference is made to a deceased person, ensure that the deceased has not been shown as a registered interest holder.

6. **Expiration of Restrictive Covenants:**

- If there is a TQ stating that the restrictive covenants on a parcel are going to expire on a specified date, there must be restrictive covenants shown on the AFR.

7. **Floating Charge Debenture:**

- If there is a TQ that identifies a debenture as a Floating Charge Debenture, this is acceptable.
- The floating charge debenture may or may not appear in the AFR.
- If the statement appears to contradict what appears in the AFR, the TQ should be escalated to Ops Support for review by Land Programs.

8. **Surface Restrictions relating to Shearwater Naval Air Station:**

- Cannot reference a book and page.
- Must be in the PDCA.
- Must identify the restrictions or identify the specific document which contains the restrictions.

9. **Form 8A:**

- TQ would explain that no Form 8A has been filed because the owner is undetermined or unknown as indicated on POL. Wording of TQ should be similar to the following: *No Form 8A has been filed with respect to PID 12345678, as the apparent owner on Property Online appears as "Road Parcel Owner Undetermined."*

Note:

Staff will reject AFRs where any reference is made (including comments) to statutory declarations regarding possession (adverse possession), if the declarations referenced are not currently appearing in the registered interest section of the AFR.

See also:

"Showing Certain Interests on the AFR" on how the most commonly used interests should be shown.