

Who Has the Time for Due Diligence? When to Spend Time and When to Save Time

When to Spend Time

1. If you are migrating, look for certain problems early:
 - a. Find out early if it's on a private road.
 - b. Rural properties - may have problems with mapping or vague descriptions.
 - c. Residential subdivisions - easements are the main complication, need search and copies early enough to prepare accurate PDCA.
 - d. Mapping - Look at early enough that if you need input from a surveyor, you have time to get it.

2. Review of parcel register on a purchase
 - a. Do you need to get anything from the other lawyer or the registry?
 - b. Description
 - c. Do parcel register and description "marry"?
 - d. Access - Does the manner of access make sense? Is it consistent? What is it? Does it match parcel register & PDCA?
 - e. Date migrated - to subsearch from
 - f. Subsearches
 - i. **Judgment searches**
 - Sellers since migration date (or date they became owners if that is later)
 - Purchasers: 20 years
 - Docs in process (sellers and purchasers)
 - ii. **Plans**
 - Since migration date
 - In process
 - iii. Parcel Register unchanged
 - By **PID** in process
 - g. Review deed: front page and description
Check
 - for anything being added or different.
 - current owner's name identical to owner being removed on Form 24.
 - new owner's name on deed identical to owner being added with Form 4.

3. Not migrated yet? If the other lawyer hasn't migrated in a timely manner, put in a friendly call or email to enquire about state of title. But also use the available resources.
For example
 - a. POL shows if the PDCA approved, AFR is pre-approved, etc.
 - b. If POL shows PDCA approved but AFR still in process, can go to "Search Parcel Description Database" and pull up the PDCA and review it.

4. Remember to look at the big picture.
 - a. Consider how the parcel register will look to the next purchaser's lawyer.
 - b. Clarity. Take time to make the parcel register clear, particularly the PDCA.

- c. Take time to understand, so you don't repeat mistakes and you can train staff.
 - d. Figure out what procedures work best for you so that nothing is missed on a property.
 - e. Refine your checklists to be concise but help cover all due diligence bases.
5. Educate developers and surveyors to consult you after new lots are subdivided.
 6. If there is a property issue particular to your area and you are already familiar with it, work with the migrating lawyer.
 7. If you have to prioritize, do your due diligence first.

When to Save Time:

1. Work with 'the System'; take advantage of what it offers.
2. Don't go behind the parcel register. Instead focus on reviewing the parcel register carefully.
3. Use the online GGI to your advantage:
 - a. Do judgment searches as early as possible.
 - b. Remember to check "Into" for releases
 - c. Shortcut: When searching 'Plans in process' can do "Control/F" and search for name
4. Look at the parcel register when preparing and when signing forms, i.e. both staff and lawyer should be looking at it every time they do something. Watch for
 - a. Mortgage amendments when removing mortgages
 - b. Power of Attorney to be removed when that owner is removed
5. If you can see the seller's lawyer did not do the migration, don't expect the seller's lawyer to send you the plan etc. Go ahead and get what you need from the LRO.
6. You can review the parcel register immediately and at any time. Use this opportunity, even as as the seller's lawyer.
 - a. For example, did someone else migrate it and you're representing seller? Look at parcel register from point of view of purchaser's lawyer.
 - b. Was it migrated a while ago i.e. have rules changed that will necessitate changes?
 - c. Does your client think their property is already migrated? Check.
7. Use blanket Utility Service Easements and Restrictive Covenants for new subdivisions. This tool is also useful for regular property owners. For example, you can create an

easement for a private driveway on subdivision or prior to selling.

8. Check the parcel register for removal of old mortgages.
9. Short form descriptions save time - but still use your judgment.
10. Look at the consequences. Differentiate between issues that affect integrity of system and those that don't hurt anyone. Take extra time for the former.
11. Understand it: then download it. Have someone else do the prep work so your time is spent checking, not doing.
12. Use the website for lawyers and staff.
From Property Online page, go to "User Group Resources" then to "Lawyers and Legal Staff" or direct to
<http://www.gov.ns.ca/snsmr/property/default.asp?mn=282.46.71.79.1071>