

Whose Job Is It Anyway?
Lawyers/Assistants and the *Property Online Help Line*
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The *Property Online Help Line* [1-866-518-4640] receives more than ninety calls per day from lawyers, legal assistants, title searchers, surveyors, municipal staff and the general public. Eavesdropping on these calls gives a person insight into the interface between substance and process, in other words between the exercise of professional judgment and the various policies and procedures inherent in the land registration system. Frequently, the ‘interface’ is an uneasy one.

The main thing to remember when calling the Help Line is that it is not the place to call for legal advice or to discuss the finer points of the legislative authority for a particular feature of the new land tenure system. The Help Line is a source for “how to” information on navigating through the system’s forms and processes. Service Nova Scotia and Municipal Relations staff are trained to assist with callers’ procedural questions and not their legal ones.

Sometimes lawyers or their assistants want to argue the finer points of statutory interpretation with the Help Line. This is not a productive use of the lawyer’s/assistant’s time. The Help Line is not in a position to engage in such discussions. This should be saved for the RELANS List Server or the Registrar General!

Admittedly, substance and procedure are occasionally intertwined and difficult to separate. But callers should remember that Help Line answers are grounded in process and not in legal substance. In other words, the lawyer/assistant may be using “substance language” when asking the question, but the Help Line is answering in “process language”. If the lawyer reacts to the latter thinking it was the former, no end of mayhem can result.

A few samples will show the substance versus process distinction quite well:

Question: The registered parcel that I am working on went through a foreclosure. How do I remove a mortgage when I do the revision?

Answer: You remove the recorded interest [mortgage] by using paragraph 7 of the Form 24.

Question: How do I remove interests that were inherited by infant parcels in a subdivision?

Answer: Use a Form 45. There is no charge to register/record this Certificate of Legal Effect.

Question: How do I delete textual qualifications on title?

Answer: Use paragraph 8 and 9 of the Form 24; it is not necessary to attach a document. Textual qualifications that are removed without a document have a separate interest type in the system.

The pattern to these questions and answers is obvious. The lawyer may be intending to ask a legal question or one that relates to interpretation of the *Land Registration Act* or Regulations, but that is not what the Help Line is answering. The lawyer asked “how?” and the Help Line answered from their own procedural vantage point. The answer says nothing about the substantive legal issue underlying the question. Staff can tell the lawyer how to do something from a procedural point of view, but obviously cannot tell the lawyer or assistant whether it is appropriate to do so.

There are times when the questions are more clearly related to legal reasoning or statutory interpretation, and these get redirected by the Help Line.

Question: There is an agreement on title. Is it a registered or recorded interest?

Answer: That is your call/the lawyer's call. We cannot tell you whether an interest is a registered or recorded interest.

Question: What do the regulations mean when they say.....?

Answer: You should be consulting our on-line resource pages or speaking with the Registrar General about this.

Question: Do I need to serve a Notice of Registration [Form 9] on my client's neighbour?

Answer: That depends. See the *Land Registration Administration Regulations*, Section 9. If you have any questions, speak to the Registrar General.

With a bit of understanding and patience, and with an ear for the language that the Help Line speaks, we hope that misunderstandings can be kept to a minimum.