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November 5, 2000

Province draws line on sloppy documentation

New standards set that could delay property registration

Users of Ontario's land registry offices got a double whammy this week with twin announcements that are certain to shake up the stakeholders in the system - lawyers, vendors and purchasers, and freelance conveyancers and title searchers.

First, the bad news.

In response to increasing sloppiness in document preparation by lawyers and other users of land registry offices, the registration division of the Consumer and Commercial Relations ministry has invoked tough new standards which will place timely completion of many real estate transactions in jeopardy.

Ministry staff report with increasing frequency that some of the million-plus property registration documents presented to land registry offices each year have contained obvious mistakes, or blanks where there should be information.

As well, a document - like a deed or mortgage - presented for registration may contain an unverified alteration - such as a deletion or a hand-written addition. When registry office staff do not know when the change was made, they will assume the change was made before the document was signed. But now, where an alteration is required to a document which has been presented for registration, the change may not be made unless it is signed or initialed by the person who originally signed the document.

When a change is required to a sworn statement, it must be initialed by the person who swore the document and the person who administered the oath (the commissioner or notary public). Where alterations are made to a document after it has been presented once, land registry office staff will assume that registrants have obtained proper authorization from their clients to make necessary amendments.

Registry office staff will no longer assist in making unauthorized changes to documents, statements, affidavits or declarations, and they will not register documents where they have actually witnessed unauthorized alterations.

As well, registry office employees will not question the authenticity of any alteration to a document made just out of their line of vision unless they have actual knowledge that it was unauthorized or that the signatures or initials do not belong to the parties who originally signed it.

The problem with the new policy - as well-intentioned as it may seem - is that while the lawyers or their agents are at the registry office trying to close the transactions, the clients are somewhere else in the city - usually far from the Registry Office - moving their furniture and belongings.

Even if the client is available on a moment's notice to initial the document, the person attempting to register the document is bounced out of the lineup, and again has to wait his or her turn behind 200 or 300 other people on a busy day.

Often, due to staff cutbacks, the clock runs out on the lineups, and the transactions cannot be registered that day.

Since the new policy was announced recently, registry office counter staff have noticed a significant improvement in the quality of documents being presented for registration. One hopes this will continue.

Lawyers may also start getting short powers of attorney authorizing them or their agents to make alterations to signed documents on the day of closing. Whether the ministry will accept such authorizations remains to be seen.

And now, more bad news. On Dec. 5, 2000, some land registry office fees increase. The cost for viewing the title records of each property jumps from \$5 to \$8. Registration of each new document goes from \$50 to \$60.

Registering a document in the Land Titles system jumps from \$50 to \$60 where electronic registration is not yet available (including offices at Toronto, Newmarket and Whitby). At the province's four Land Titles Offices that are equipped for electronic registration of documents without signatures, document registration charges jump to \$70 across the counter, and \$70.70 if handled remotely. The \$70.70 includes a \$60 registration charge, a \$10 user fee and GST on the user fee. This is in addition to the cost of the Teraview electronic registration ("e-reg") software.

For the moment, no other costs change, but a rise in the fees charged by sheriffs to search personal liens or a boost in Land Transfer Tax (which already brings in \$580 million) is not out of the question.

John Dalgleish, a spokesperson for the Real Property Registration branch, told me this week that the fee increase is the first in the last seven years, and was implemented to help fund the modernization of the registry office and speed up implementation of the electronic commerce environment.

Eventually, the plan is to have every one of Ontario's 4.3 million property titles automated for remote electronic searching and electronic registration without signatures. Currently, about 2.87 million properties are online and, by the end of the next fiscal year, the target is 3.1 million.

The fee increases may mean an extra \$23 to \$43 per transaction, but combined with even worse fee boosts from municipalities like Toronto, they make it considerably more expensive to close every real estate transaction.

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