

Practice Note 01-15

Land Title and Survey Authority of BC Land Title Division

August 7, 2015

***Land Title Act* section 222 - Cancellations of discriminating covenants**

1. Background:

Section 222 of the *Land Title Act* specifies that covenants that restrict the sale, ownership, occupation or use of land on account of sex, race, creed, colour, nationality, ancestry or place of origin of a person are void and of no effect. Section 222 is set out below for reference.

The section, which was enacted in 1978, has legal declaratory effect: it operates against any registered covenant that directly or indirectly has a discriminating effect, whenever registered and in whatever form created.

The registrar is authorized to take action to reflect the operation of s. 222, on request from an owner or on the registrar's own initiative. Requests from owners are processed as cancellations done by the registrar on the registrar's own initiative; accordingly, there is no customer fee for cancellation of a discriminating covenant.

2. Practice:

On being made aware of the continuing presence in the register of a discriminating covenant, the registrar will act to amend the register and records to comprehensively reflect that the discriminating covenants are no longer valid.

Instruments containing discriminating covenants typically also contain other provisions that are not affected by s. 222 and which remain valid.

Where the instrument contains non-discriminating provisions that are not affected, the registrar will make an endorsement on the affected title, and original document indicating that the discriminating covenant has been cancelled pursuant to *Land Title Act* s. 222. After making the endorsement on the original document, the amended document will be

rescanned and reloaded into the records, under its original registration number, and will constitute the official record of the document.

Where the entire instrument has been affected by s. 222, the registrar will cancel it from all titles against which it is registered and make an endorsement on the document indicating its cancellation.

In many instances, the covenant documents which are affected by s. 222 are stored on microfilm (generally documents registered prior to 1960). For technology-related reasons, it is not readily possible to remove individual documents from microfilm reels; as such, the original versions of documents containing discriminating covenants that have been affected as described above will continue to be accessible on microfilm. To ensure they access the official record of the document, customers are advised they should always search for the record directly through their myL TSA account before going to microfilm records.

Owners may submit requests to the registrar:

- Online through the LTSA Customer Service Centre at <https://myltsa.ltsa.ca/contact/customer-service-centre>.
- In writing by mail addressed to Registrar, New Westminster Land Title Office, Suite 300-88 Sixth Street, New Westminster, British Columbia, Canada, V3L 5B3.

The request should include the legal description and/or parcel identification number (PID) of the lands affected by the discriminating covenant, and the registration number of the covenant.

Discriminating covenants are void

222 (1) A covenant that, directly or indirectly, restricts the sale, ownership, occupation or use of land on account of the sex, race, creed, colour, nationality, ancestry or place of origin of a person, however created, whether before or after the coming into force of this section, is void and of no effect.

(2) The registrar, on application, may cancel a covenant referred to in subsection (1) that was registered before October 31, 1979.

(3) If the registrar has notice that a registered restrictive covenant is void under this section, the registrar may, on the registrar's own initiative, cancel the covenant.



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