



CIRCULAR LETTER NO. 401

October 19, 1998

TO ALL BRITISH COLUMBIA LAND SURVEYORS

Re: Highway Dedication over Registered and Unregistered Land

Attached for your use is a copy of Land Title Branch Practice Bulletin No. 0198 detailing the method by which Land Title Offices will register plans showing surveys of roads which include both registered and unregistered Crown land.

Please note the requested changes to the title block (Item 2 under Practice), the Book of Reference (Item 3 under Practice) and the deposit notation (Item 6 under Practice). Certification for signature on behalf of the Minister of Environment, Lands & Parks has also been changed (Item 5 under Practice). This affects the two signature blocks referred to in my Circular Letter No. 398.

Yours sincerely,

Chuck Salmon
Surveyor General

CHS:np

Enclosure

LAND TITLE BRANCH

PRACTICE BULLETIN

No 0198

SUBJECT Highway Dedication Over Registered and Unregistered Land

ISSUANCE Director of Land Titles

IMPLEMENTATION All Land Title Offices

AUTHORITY Ministry of Lands, Parks and Housing Act, S. 9
Land Title Act, S. 107
Land Act, Section 79 and 80

**RELATIONSHIP TO
PREVIOUS PRACTICE** Restatement

EXECUTIVE APPROVAL

EFFECTIVE DATE:
July 1, 1998

BULLETIN NO: 0198

FILE NO: LTA107

1. BACKGROUND

On occasion, a road dedication will affect both registered and unregistered Crown land. Where this occurs, the Crown prefers to use a single reference plan to effect the dedication.

In a directive dated February 25, 1992, the Director of Land Titles approved the use of a single reference plan for these purposes. Prior to that time, some land title offices required the Crown to raise a title to the unregistered land as a condition of accepting a single reference plan in these circumstances. The 1992 directive does not require the Crown to do this.

In spite of the 1992 directive, there remains some diversity in practice in land title offices. In the interest of uniformity, this Practice Bulletin replaces the 1992 directive.

2. LEGISLATION

LTA 102 allows the Crown to dedicate a road on registered Crown land. However, the Crown typically uses LTA 107 for this purpose especially since the section was amended to permit the use of reference and explanatory plans. Formerly, LTA 107 was confined to subdivision plans only.

With respect to unregistered land, the Crown is authorized to dispose of land for road purposes under the Land Act ("LA") and the Ministry of Lands, Parks and Housing Act ("MLPH"). Specifically,

- (a) LA 80 authorizes the Surveyor General to establish a public road allowance across Crown land to provide access to other land being subdivided. In practice, this is done by a subdivision plan of registered land that is signed by the Surveyor General to certify that the Crown land portion of the road has been approved under the Land Act. [See: Practice Manual, Vol. 3, at p. 17-14].
- (b) LA 79 authorizes the Surveyor General to establish a road allowance through Crown Land.
- (c) MLPH 9(1) authorizes the Minister to dispose of Crown land for any purpose. A disposition includes the establishment of a road over unregistered Crown land.

3. PRACTICE

The Registrar will accept for deposit a single reference plan that dedicates a road over registered Crown land and establishes a road over adjacent unregistered Crown land so long as the following practice requirements are met.

1. The plan must, through appropriate labels clearly distinguish the registered and unregistered lands covered by the plan. For unregistered land the Surveyor General typically uses the label "Unsurveyed Crown Land" which is acceptable. The preferred label is "Unregistered Crown Land".

2. As the establishment and dedication affects both registered and unregistered land, the plan heading should identify the applicable statutes. The following is an example:

"REFERENCE PLAN TO DEDICATE A ROAD THROUGH [Legal Description of Registered Land] PURSUANT TO S. 107 OF THE LAND TITLE ACT AND TO ESTABLISH A ROAD THROUGH ADJACENT UNSURVEYED CROWN LAND PURSUANT TO SECTION 9(1) OF THE MINISTRY OF LANDS PARKS AND HOUSING ACT.

3. Similarly, the Book of Reference must distinguish the registered land affected by the dedication from the unregistered land affected by the establishment.

4. To the extent that the reference plan affects registered land, it must comply with LTA 67, and be signed by the approving officer and by all owners who may be affected by the dedication.

5. To the extent that the reference plan affects unregistered Crown land, it must contain the Surveyor General's certification under MLPH 9(1) or LA 79. The following certification is acceptable:

"The public highway shown as a road through the Crown land shown on this plan is approved and established pursuant to section 9(1) of the Ministry of Lands, Parks and Housing Act.

For the Minister of Environment, Lands and Parks "

6. The deposit notation on the plan should reflect that the operation of LTA 107 only applies to the registered land. Again, the following deposit notation is acceptable:

"DEPOSITED IN THE LAND TITLE OFFICE PURSUANT TO SECTION 107 AS TO [Legal description of registered land] ONLY THIS [Year/Month/Day]".

7. On deposit of the reference plan, the title affected must be reissued with the following statement added to the legal description:

"(Except part in plan [number])"

The foregoing practice points are designed to emphasise that the deposit under LTA 107 only operates to dedicate and vest that part of the road affecting registered land. While informative, the balance of the information shown on the plan (as it relates to the road established over the unregistered Crown land) is surplus to the requirements of LTA 107.

This Bulletin does not affect the existing practice of accepting a reference plan establishing a road over unregistered land only. While such plans may be filed for information purposes, they are not deposited under LTA 107 and have no legal effect under that section.