



OUR FILE

89-10-30

CIRCULAR LETTER TO ALL BRITISH COLUMBIA LAND SURVEYORS

Re: Section 108(2.1) - Land Title Act

Where, pursuant to Section 108(2.1) of the Land Title Act, a subdivider requests exemption to the provisions of Section 108(2) of the Land Title Act, he or his agent shall make application to the Surveyor General, through the appropriate regional office, and shall include in his application the following information:

1. Proof that the local approving officer is prepared to approve the proposal;
2. Three prints of a preliminary plan, signed by a British Columbia Land Surveyor, showing:
 - (a) the natural boundary as depicted by the plan upon which title is based;
 - (b) the present natural boundary, if its location is evident;
 - (c) the present mean high water line (i.e. limit of fill or excavation), if it differs from the present natural boundary or if the present natural boundary is not evident.
3. Two sets of colour photographs clearly showing the above boundaries clearly marked thereon in ink together with the area lying below the natural boundary or covered by water which, save for exemption, would otherwise be affected by Section 108(2);

4. Information about the body of water affected by the application including:
 - (a) the name, if any;
 - (b) whether it is under the jurisdiction of a harbour authority;
 - (c) whether the water level is controlled and, if so, by whom, for what purpose and by what means;
 - (d) proof of excavation of man-made waterway, if applicable.
5. Detailed reasons for requesting exemption;
6. The prescribed fee in the amount of \$500.00.

The regional office will forward the application to this office for review and adjudication.

Typical circumstances where approval might be recommended would be where the area covered by water has been flooded by a man-made dam or other works, where the area has been excavated in construction of approved man-made waterways, or where the Crown grant expressly included land lying below a natural boundary.

The applicant will be notified in writing whether the Surveyor General is or is not prepared to recommend approval to the Lieutenant Governor in Council.

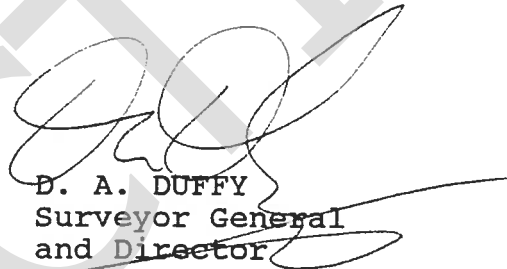
If approval of the application has been recommended, the applicant shall forward to this office, three paper prints of the final plan, duly approved by the approving officer. This office will obtain a reduced copy of the plan, which is required to accompany the order in council. Should time be of the essence, turnaround time can be reduced if a reduced copy, on legal size paper, is supplied at the time prints are forwarded to us.

If approved by the Lieutenant Governor in Council, a certified copy of the order in council shall be forwarded directly to the appropriate Land Title Office for filing whereupon it will be given a Land Title Office filing number. The applicant will be advised of the number in order that it may be shown on the plan.

Where an order in council has been filed, the subdivision or reference plan shall have draughted thereon the following certificate:

Pursuant to Section 108(2.1) of the Land Title Act, land dealt with hereon, shown covered by water and not designated "Returned to Crown in right of the Province," is not deemed to be transferred to the Crown by virtue of an exemption, by order in council, to the action of Section 108(2) of the Land Title Act. See DF (insert L.T.O. filing no.).

Yours sincerely,



D. A. DUFFY
Surveyor General
and Director

INVA