

SURVEYS AND MAPPING BRANCH

**DEPARTMENT OF LANDS, FORESTS,
AND WATER RESOURCES**

VICTORIA, B.C.



THE GOVERNMENT OF
THE PROVINCE OF BRITISH COLUMBIA

ALL COMMUNICATIONS IN REFERENCE TO SURVEYS, MAPS,
AND AIR PHOTOS SHOULD BE ADDRESSED TO THE
DIRECTOR OF SURVEYS AND MAPPING

THE REPLY TO THIS LETTER SHOULD BE MARKED
FOR THE ATTENTION OF:

AIR DIVISION.....
GEOGRAPHIC DIVISION.....
LEGAL SURVEYS DIVISION.....
TOPOGRAPHIC DIVISION.....

185

YOUR FILE NO.

PLEASE QUOTE OUR FILE NO.

June 15, 1965

CIRCULAR LETTER TO ALL BRITISH COLUMBIA LAND SURVEYORS

Sir:

Re: Land Registry Act Amendment Act, 1965

Attached hereto is a copy of part of the above mentioned
Amendment Act with particular reference to Section 5.

It is pointed out that although the procedures mentioned below
for plans covered by Sections 102(2) and (3) of the Land Registry Act
appear somewhat lengthy and complicated they nevertheless now provide a
means of dealing with such cases, many of which heretofore would have
been matters for the Courts to decide.

To facilitate the handling of applications under Section 102(2)
the following procedure has been arranged.

- (A) To enable an accretion to be dealt with under this section,
the bed of the body of water, of which the accretion formerly
was a part, must belong to the Crown Provincial.
- (B) An application for tentative agreement of the Minister to
include lawfully accreted land in a subdivision shall be
made by the upland owner or agent to the Superintendent of
Lands after consultation with the Registrar of the appropriate
Land Registry Office.
- (C) If the Registrar considers a certificate necessary, a letter
from him to the surveyor or agent suggesting this is a case
for the Minister's certification, shall be forwarded by the
surveyor or agent to the Superintendent of Lands with the
following supporting material:
 - (1) A preliminary plan of the proposed subdivision signed
by a British Columbia Land Surveyor which shall show:
 - (a) The water boundary of the present Certificate of
Title.
 - (b) A traverse and sufficient offsets therefrom to
the boundary of the land deemed to be accreted.
 - (c) Classification of the area to be acquired, i.e.,
soils, type of vegetation, etc.
 - (d) Relative elevations of original land, accretion
and water level.
 - (e) Plotted positions and directions of photographs
required to be taken under (2) below.

- (2) Ground photographs to be supplied of all traverse stations of the new natural boundary, taken to illustrate the position of the station with respect to the natural boundary. On the photographs there should be illustrated the side boundaries of the accretion to show any division of said accretion with an adjoining property. Traverse stations to be flagged and numbered on the photographs.
- (D) Tentative agreement by the Minister may require the consent of the adjoining owner, in letter form, with the final linen when it is presented for the Minister's certification.
- (E) When tentative agreement has been secured from the Minister with respect to the preliminary plan and the final linen is submitted by the Registrar for the Minister's signature, with an indication that it is otherwise acceptable for deposit, it shall include on it the following printed certificate:

Certificate under Section 102(2)

Land Registry Act

The unregistered land included within this plan is deemed to be lawfully accreted land adjoining Crown lands.

(leave 1" space)

Minister of Lands, Forests and Water Resources
Victoria, B. C., 19...

- (F) Prior to the granting of tentative approval by the Minister as per the foregoing, a careful inspection on the ground by an officer of the Land Inspection Division may be required. The material to be submitted in support of an application for a Certificate in accordance with (C) above should be construed as being in the nature of assistance to the Department in adjudication of the application and is not intended as a substitute for examination of the site on the ground should such examination be considered advisable.

The procedure hereunder is for applications under Section 102(3).

- (A) To enable a discrepancy in a Natural boundary to be dealt with under this section, the bed of the body of water on which the land fronts must belong to the Crown Provincial (except in certain instances where the foreshore area has been Crown granted and is held in the name of the owner of the upland).

- (B) An application for tentative agreement of the Minister that the boundary shown on a plan is in fact the Natural boundary, should be made by the surveyor, as agent for the owner, to the Surveyor-General after consultation with the Registrar of the appropriate Land Registry Office.
- (C) If the Registrar considers the Minister's certification necessary, a letter to this effect from him to the surveyor or agent shall be forwarded by the surveyor or agent to the Surveyor-General with the following supporting material:
- (1) A preliminary print of the proposed subdivision signed by a British Columbia Land Surveyor which shall show:
 - (a) The water boundary of the land according to the plan on which the present title is based.
 - (b) The Natural boundary as defined in the "Land Act."
 - (c) Plotted positions and direction of photographs required to be taken under (2) below.
 - (2) Ground photographs showing the nature of the area being dealt with, which shall have superimposed on them the approximate side boundaries of the upland property. Traverse stations of the Natural boundary should be flagged to show up in the photographs.
- (D) When tentative agreement has been secured from the Minister with respect to the preliminary plan and the final linen is submitted by the Registrar for the Minister's signature, with an indication that it is otherwise acceptable for deposit, it shall include on it the following printed certificate:

Certificate under Section 102(3)

Land Registry Act

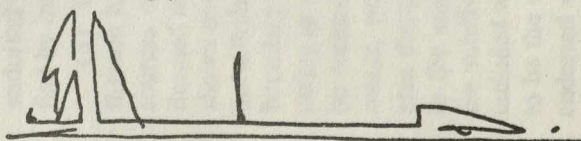
The water boundary shown hereon is deemed to be the Natural boundary as defined in the "Land Act."

(leave 1" space)

Minister of Lands, Forests and Water Resources
Victoria, B. C., 19...

- (E) In addition to the material to be furnished in support of an application for a Certificate as per (C) above, an examination on the ground by an officer of the Land Inspection Division or by a Departmental Surveyor may, on occasion, be necessary.

Yours truly,



G. S. ANDREWS,
Surveyor-General and Director

Encl.

CHAPTER 22

An Act to Amend the Land Registry Act

[Assented to 26th March, 1965.]

R.S.B.C. 1960,
c. 293;
1961, c. 33;
1963, c. 22.

Re-enacts
s. 102.
Subdivision
plans.

Accreted
land.

Water
boundaries.

Endorsement
of certificate.

5. Section 102 is repealed and the following substituted therefor:—

“102. (1) Subject to the provisions of subsection (2), no plan shall be received on deposit unless all the land included therein and subdivided thereby is registered in the register.

“(2) Where a subdivision plan is tendered for deposit and endorsed thereon is a certificate of the Minister of Lands, Forests, and Water Resources certifying that the land or any portion thereof intended to be dealt with by the plan is lawfully accreted land adjoining Crown lands, the certificate shall be deemed to be evidence satisfactory to the Registrar that the registered owner, purporting to include within the plan the accreted land, has established thereto a good safe-holding and marketable title in fee-simple and the subdivider's certificate of title to the land included within the boundaries of the plan and affected by the accretion is the registered title to the accreted land. Where such certificate of title is endorsed with a registered charge, the charge shall be deemed to be modified by including therein the accreted land.

“(3) Where a subdivision plan is tendered for deposit and endorsed thereon is a certificate of the Minister of Lands, Forests, and Water Resources certifying that the water boundary as shown on the plan is deemed to be the natural boundary as defined in the *Land Act* of the land shown outlined in red on said plan, then, on the deposit of the plan and notwithstanding that the water boundary does not agree with the natural boundary shown on a plan already deposited in the Land Registry Office owing to a lack of sufficient detail on the latter plan, the certificate shall be deemed to be evidence satisfactory to the Registrar that the registered owner, purporting to include within the subdivision plan tendered the area comprising the subject-matter of such discrepancy, has established to the area a good safe-holding and marketable title in fee-simple and the subdivider's certificate of title to the land adjoining such area and included within the boundaries of the subdivision plan tendered is deemed to be the registered title to such area. Where such certificate of title is endorsed with a registered charge, the charge is deemed to be modified by including therein such area.

“(4) Notwithstanding the *Land Act*, where a plan to be tendered for deposit in a Land Registry Office

“(a) includes land that adjoins Crown land and that has lawfully accreted to the land being subdivided; or

“(b) includes a water boundary shown thereon that differs from the water boundary shown on the preceding plan on which the present title is based,

the Minister of Lands, Forests, and Water Resources may, if in his opinion it is in the public interest so to do, endorse on the plan a certificate

“(c) that the land in question is lawfully accreted land; or

“(d) that the water boundary is deemed to be the natural boundary as defined in the *Land Act*,

and thereafter, following registration of the plan in a Land Registry Office, the subdivider shall be deemed to be seized with a good safe-holding and marketable title in fee-simple to the accreted land and to any land brought within the subdivision by reason of the new water boundary, and the water boundary shall be deemed to be the correct natural boundary as defined in the *Land Act*.

“(5) The Minister of Lands, Forests, and Water Resources shall not certify a plan under subsection (4) unless he is first satisfied

“(a) that the land in question has lawfully accreted to the registered land of the subdivider; or

“(b) the water boundary shown on the plan is in fact the correct water boundary, and the water boundary as shown on the preceding plan on which the present title is based was incorrectly shown thereon due to lack of detail or sufficient detail, or other good reason.

“(6) The Registrar may, in his discretion, refuse to receive a plan covering lands held under more than one title if he deems that confusion as to title of parcels may result.”

Prerequisites to
endorsement.

Discretion to
refuse plan.