

CIRCULAR LETTER NO. 484B

(This letter supersedes Circular Letter No 484A issued January 12, 2022)

September 26, 2022

TO ALL BRITISH COLUMBIA LAND SURVEYORS

Re: Section 58 *Land Act* Applications

Section 58 of the *Land Act* provides a mechanism whereby a land owner proposing to subdivide may apply to the Minister for a declaration of intention with respect to the ownership of a bed of a body of water, watercourse, or a road shown on a Crown grant tracing.

The Surveyor General has been delegated the authority to adjudicate applications pursuant to section 58 of the *Land Act*.

If doubt exists whether land is included in a grant, or whether it is in the public interest that the part coloured other than in red on a Crown grant tracing need be retained by the province, an application may be made to the Surveyor General. Section 58 is only applicable to lands that have been alienated by a provincial Crown grant which included a Crown grant tracing; section 58 cannot be used for lands that were alienated by other means, such as a Dominion Patent.

Roads shown on Crown grant tracings that are deemed to be highway, as defined in section 1 of the *Transportation Act*, cannot be transferred directly to private ownership through section 58 of the *Land Act*. An inter-ministry process is in place through which a highway can be closed, administration and control transferred to the Minister responsible for the *Land Act*, and ownership of the closed road subsequently transferred to the owner of the surrounding property through section 58. A full explanation of procedure can be found in Direction to Land Surveyors No. 18 titled "[Disposing of provincial public highway through section 58 of the Land Act](#)"¹.

An application must contain the information outlined in the [application checklist](#)². An application will only be accepted if the final plan will be a subdivision of land. Applications are to be submitted through myLTSA.

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¹ <https://ltsa.ca/professionals/surveyor-general/directions-to-land-surveyors/direction-18-disposing-of-provincial-public-highway/>

² <https://ltsa.ca/practice-info/inclusions>

When making an application that relates to a body of water shown on a Crown grant tracing, the applicant must clearly express why the application area is no longer required to remain as Crown land or, if a body of water or watercourse no longer exists, an explanation needs to be provided as to why it no longer exists. Any unnatural interference with the subject area must be documented.

The applicant must also state whether they are seeking a clarification of existing ownership or a transfer of land from Crown to private ownership. Two examples are provided below.

Example of clarification of existing ownership:

- A watercourse is shown on the Crown grant tracing in blue, however a watercourse was not present at the time of the grant and thus there was no land below a natural boundary excluded under section 55 *Land Act*.

Example of a transfer of land from Crown to private ownership:

- A watercourse is shown on the Crown grant tracing in blue. The watercourse has been diverted to a new channel and the old channel no longer exists. The applicant seeks transfer of the old channel into the adjacent title.

The onus is upon the land surveyor to provide sufficient evidence to support the application.

Upon receipt of a complete application, it will be referred for comment to provincial government agencies and may be referred for comment to local governments or other agencies which may have site specific information. The provincial government will consult with First Nations when Indigenous Interests may be affected.

If the Surveyor General deems it necessary to carry out a site inspection, the inspection will be conducted by a Deputy Surveyor General and the applicant will be responsible for expenses incurred to conduct the inspection.

Upon completing the adjudication of an application, the applicant will be notified of the outcome in writing. If conditional approval is granted, the final plan must be submitted to the Surveyor General for certification within six months of the date of the conditional approval.

Yours sincerely,

Cristin Schlossberger, BCLS
Surveyor General of British Columbia