



DO Presentation

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Discussion

- Triggers for migration to Land Registration system
 - Family gifting affidavit
- SHORT FORM DESCRIPTIONS vs long form descriptions in PDCA's
 - When can short form be generated
 - amending PDCA (descriptions):
 - by mapper
 - Submitted by lawyer
- Subdivision EXEMPTIONS by statutory declaration

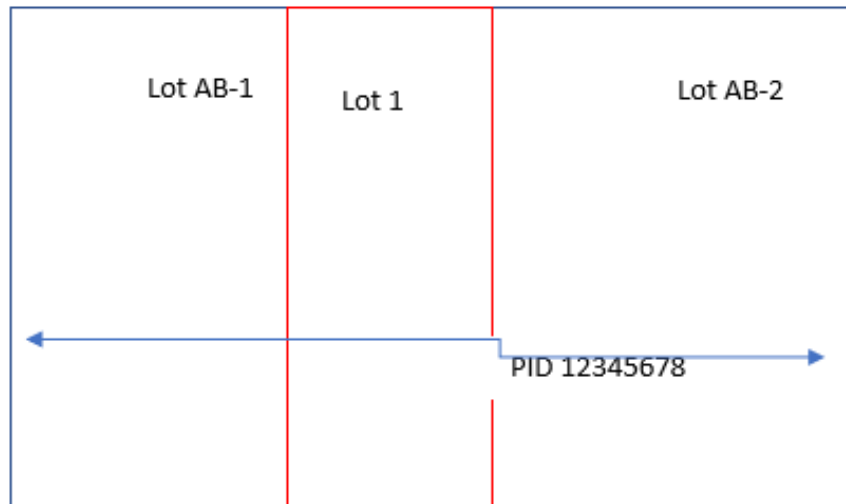
Mandatory Migration Triggers

The following transactions are mandatory triggers to the new land titles registry:

- a subdivision creating 3 or more newly configured lots (includes remainders)
- a transfer for value
- a mortgage
- certificate of title under the *Quieting of Titles Act*

A Subdivision plan creating 3 or more newly configured lots

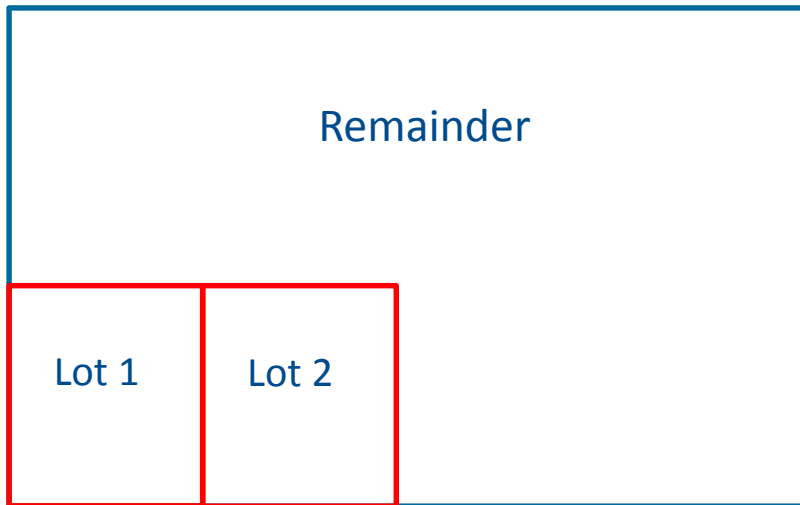
- One approved lot that severs the remaining lands into two remaining parcels....mandatory LR trigger



- One original parcel
- lot 1 approved
- Location of lot 1 creates two remainders

Mandatory Trigger as results in three newly configured parcels

- Two lots or more and one remainder mandatory LR trigger



- One original parcel
- lot 1 and 2 approved on plan

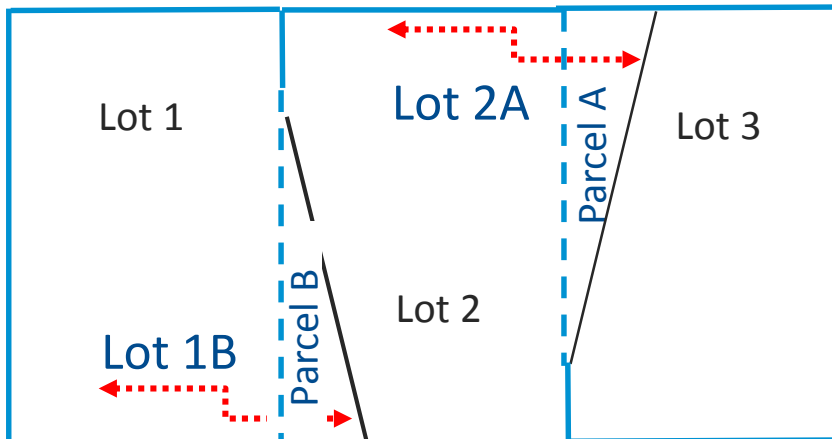
Mandatory Trigger:
Results in three newly configured parcels

- Three or more approved lots, no remainder..... mandatory LR trigger



- One original parcel
- Lots 1, 2 and 3 approved

Mandatory Trigger:
Results in three newly configured parcels



- three original parcels
- Lots 1B, 2A and 3 approved

Mandatory Trigger:
Results in three newly configured parcels

Exemption:

Family Exemption:

A subdivision solely for the purpose of gifting to family members is exempt from the subdivision trigger. A sworn affidavit to this effect, signed by each of the owners, must be submitted with the plan to the Land Registration office. There is an Affidavit of Family Gifting form available on-line at:
https://ows2.gov.ns.ca/LandRegistrationResourceMaterial/Client_Manual_Default.html

AFFIDAVIT OF FAMILY GIFTING

MATTER OF Parcel Identification Number (PID) to be subdivided:

PIDs:

I/We, _____, of _____, in the
County of _____, Province of Nova Scotia, make oath and say as follows:

1. I am/we are the owner(s) of the lands that are the subject of a proposed subdivision, as indicated on the attached plan of subdivision or instrument of subdivision; and
2. The sole purpose of this subdivision is to create lots to be gifted to a parent, spouse, brother, sister, child or grandchild of mine/ours.

SWORN TO at _____, in the)
County of _____,)
Province of Nova Scotia, this ____ day)
Of _____, 20__ before me,)
_____) _____

Subdivision trigger

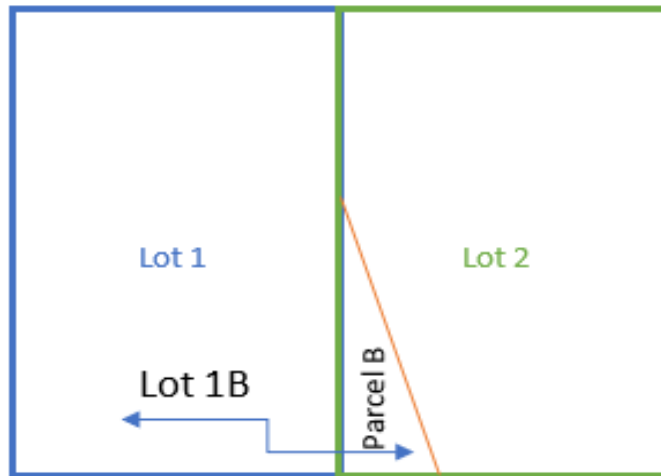
- Section 23(2) of the Land Registration Act
(2) Where a plan of subdivision, instrument of subdivision or notice of subdivision that results in the consolidation of lands is submitted for registration, a registrar shall not accept the document unless the parcel from which any land is taken and the parcel to which any land is added are registered pursuant to this Act.

Therefore

- A consolidation which combines any portion of a non-land registration parcel with any portion of a land registration parcel is a mandatory trigger for all non-land registration parcels involved.

Exemption from the Sale for Value Trigger

The sale for value of an addition parcel created solely for the purposes of a consolidation is exempt from the mandatory sale trigger.

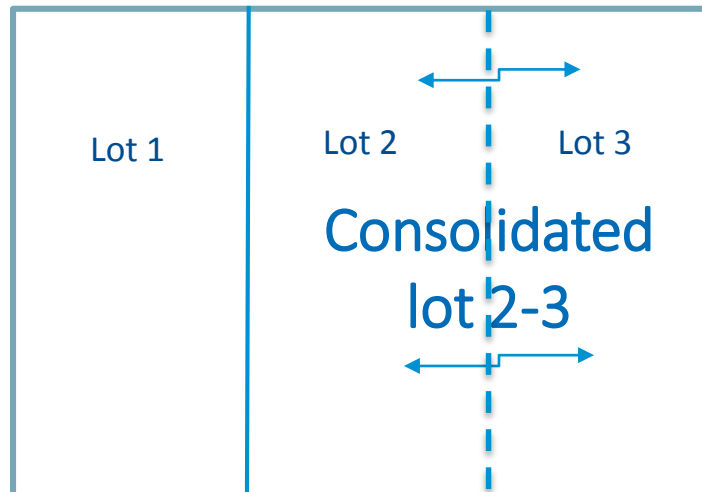


- lot 1 and 2 are non LR parcels
- Sale is for value

Exempt from LR trigger as parcel B is being conveyed solely for the purpose of consolidation

Exemption from the Sale for Value Trigger.....continued

- Note: An existing parcel being sold (sale for value) to the owner of another existing parcel to effect a consolidation is not exempt from the sale for value trigger.



- lot 2 and 3 are non LR parcels
- Sale is for value
- Trigger for mandatory migration as Lot 2 was not created solely to be consolidated with the adjoiner

Short form Description requirements

- Sketches, compiled plans, TIR plans not certified/signed by a surveyor, Instruments of Subdivision, etc. can not be used for a short form description.
- The plan must be signed by a qualified person (NSLS, PLS, etc.).
- All abutters must be clearly identified from the information shown on the plan. (Lot Numbers, if current, can be used as abutters. PID numbers, alone, cannot be used as abutters). Note: Book & Page reference is not acceptable as an abutter.
- A uniquely identifiable label
- The boundaries must be clearly defined on the plan, that is: the configuration clearly indicated on the plan in solid line. Dashed lines are only acceptable when both the direction and the distance are specified.
Can not be remainder sketch

Mappers generating PDCAs for plans

Mappers generate short form descriptions for:

- Subdivisions: all approved lots created by the plan that has been assigned new PIDs providing the plan has enough detail to allow short form description generation
- Consolidations: all new parcels listed on the approval stamp where the plan has enough detail to allow short form description generation.

Mappers would not generate a short form description for the remainder parcels.

The existing description would be kept and the mapper would add :

- *Saving and excepting Lot(s){approved lot numbers} As shown in Registered Plan No. recorded in the Land Registration Office forCounty.*

Amending PDCAs

Land Registration Administration Regulations

9 (3) *The registered owner of a parcel registered under the Act that is created on subdivision or registration of a condominium declaration must file all of the following before submitting an request to change the registered owner of the parcel:*

(b) any consequential amendment of the PDCA for the parcel in Form 2.

What does this mean:

The description for the remainder lands has to be amended to reflect the parcel removed through subdivision. In most cases the mapper would create and approve the amending PDCA as required. However there are circumstances when the lawyer/surveyor must submit amending PDCAs in order for the subdivision/consolidation plan to be processed

Amending PDCA required by submitter

Submitter must submit an amending PDCA in the following cases:

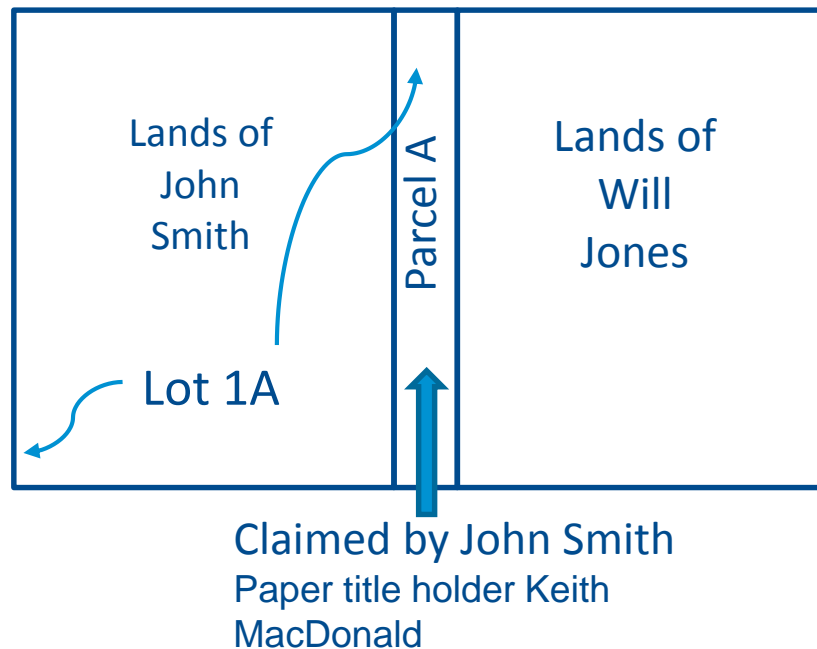
1. If plan severs the remaining parcel into two lots and the severed remainder parcel that received a new PID :
 - isn't defined clearly on the plan (can not be based on a remainder sketch)or
 - or does not have a unique identifier,
2. Any approved lot on the plan that doesn't have a unique lot identifier or does not meet short form requirements
3. Any Instrument of Subdivision
4. Subdivision/consolidation exemptions

Adverse possession and plans

Mappers do not react to Adverse Possession unless:

- the property is going to be registered under the LRA
- Court Order registered giving title to an occupier
- Shown on an Approved Plan of Subdivision – if a possessory parcel is being approved as an addition or standalone parcel, on an approved plan of subdivision or consolidation, upon Pre-approval mapper would provide comments to DO
- The occupied/claimed by parcel forms part of a requested lot approval, ownership comments are based on the paper title holder(s) only and not the “Lands Claimed By” owner.

For example: If approval was requested for Lot 1A; addition Parcel A being shown as “Lands Claimed by” John Smith. The mapper’s comments would be relative to the paper title holder of Parcel A, not the person(s) claiming. Comments would be that a conveyance document to affect common ownership for Lot 1A. Deed from Keith MacDonald for parcel A MUST accompany plan to the LRO



Subdivision Exemptions

There are several ways to subdivide without an approved plan of subdivision. These are outlined in the Municipal Government Act under sections:

- Section 268(2) subdivision exemptions
- Section 268A defacto consolidations
- Section 268B subdivision by watercourse

Statutory declarations can be used for subdivision exemptions under s268(2) and s268A.

In order to subdivide by the provisions in s268(2) the requirements outlined in s269(3) must be met.

Section 268(3) MGA / 278(3) HRM Charter were amended, effective May 11, 2015.

In order to create a subdivision based on an exemption from the requirement for approval set out in any of the clauses in subsection (2), except clause (b), a document that;

Specifies the intent to create the subdivision, the exemption on which the subdivision is based and the facts that entitle the subdivision to the exemption; and

Provided proof of the consent of the person entitled to create the subdivision, must be registered or recorded in the registry.

To satisfy this requirement lawyers will use:

- Deed – with schedule outlining the evidence of the intent, exemption, facts and owners signatures
- or
- Separate statutory declaration outlining the intent, exemption, facts and owners signatures

QUESTIONS/COMMENTS