

Law Reform Commission Of British Columbia

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Backgrounder

The Legal Consequences of a Temporary Land Title Office Shutdown

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Introduction

In British Columbia, registration is necessary in order to transfer ownership of land. This is because British Columbia, like other western provinces, adopted the Torrens system for land registration. The purpose of the Torrens system is to provide certainty in dealings with land and to eliminate the need for exhaustive investigation into the ostensible owner's title. It follows that real estate transactions can only be completed properly when the Land Title Office is accepting and processing applications for registration in the usual manner and its records can be adequately searched to discover the status of titles. Inability to register documents at the proper time could seriously affect the position of one or more parties to a land transaction.

An Automated Land Title Office System (ALTOS) has been in operation in British Columbia Land Title Offices since 1983. Its principal element is a database for storing and retrieving electronic information relating to ownership of, and charges on, land. Virtually all titles to land in the Vancouver, New Westminster and Victoria Land Registration Districts have been computerized, as well as titles to most other privately held land in the province. Once a title was converted to electronic form, the paper records that formerly related to it were no longer retained. Thus, the only way of obtaining information about computerized titles is through a computer search. With the ALTOS 1 system already in operation, the Land Title Branch is also in the course of implementing the ALTOS 2 Project, which is described as a "re-engineering" of the way the Land Title Office operates. Part of the project involves the replacement of the existing system with a more sophisticated database architecture that allows for more complex searches.

With the encouragement of the Law Society's Land Titles Computerization Committee, the British Columbia Law Reform Commission has undertaken this project examining the effects of computerization of Land Title Office.

Objectives

The objectives of the project are to:

- Examine the effect of Land Title Office operation interruption on a sale of land and the effect on contractual obligations resulted from interrupted access to Land Title Office registration and search functions.
- Generate a report containing concrete, balanced recommendations to clarify the legal effect of a temporary cessation of normal operations in the Land Title Office, and to facilitate reasonable courses of action that are, or should be, available to the parties to a land transaction in such a case.

Rationales for the Project

British Columbia Land Title Offices have become highly dependent on computers and such dependency will increase in the future. The computerization of the Land Title Office has given rise to expressions of concern about the continuity of registration functions and the preservation of records. Standard contracts of purchase and sale of land and solicitors' undertakings given in connection with them seldom provide for the contingency that a computer-related problem might interfere with completion of land sales. It is also recognized that similar problems could arise from any disruption of operations in Land Title Offices, regardless of the cause.