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REGISTRATION OF TITLE TO LAND

DiCastri Release No. 9, September 2025

Ontario Land Titles Act and the English statutes upon which it is based.

Registration of Title to Land is the authoritative treatise on land titles in Canada. This three-volume supplemented work provides detailed analysis of the underlying principles, theory and operation of land titles systems in Canada, the adaptation of the Torrens model in the western provinces, and makes a comparative study of the principles of the title registrations embodied in the

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What's New in this Update

This release updates the commentary and caselaw in Chapters 6 (Land Descriptions and Registered and Deposited Plans of Survey), 8 (The Statutory Transfer), 11 (Powers of Attorney), 12 (Leases), 13 (Mortgages), 15 (Lis Pendens), 16 (Transmission), 17 (Registration) and 18 (Statutory Exceptions to Indefeasibility of Title).

Highlights

- LAND DESCRIPTIONS AND REGISTERED AND DEPOSITED PLANS OF SURVEY—THE CONDOMINIUM ACTS—THE CON-DONMINUM CORPORATION—LITIGATION BY OR AGAINST **CORPORATION**—Condominium Corporation No 0840294 v. Oakley, 2025 ABCA 77 (appeal from order dismissing application for declaration condominium corporation did not have standing to sue for fire damage caused to particular unit; defendant alleged no standing respecting unit owned by resident's association in which condominium corporation had no legal interest; unit not entirely made up of elements of common property, but includes common use areas such as hallways, stairwells and roof; no evidence of resident's association activity after taking title to unit and association ceased to exist after being struck from corporate registry; property included in unit always treated as common property and controlled, managed and insured by condominium corporation; appellants did not have reasonable expectation unit was not common property or rely on ownership of unit by resident's association; appeal dismissed).
- THE STATUTORY TRANSFER—PREFATORY—INTERESTS IN LAND TRANSFERABLE AND REGISTRABLE—PRESUMPTION IN FAVOUR OF JOINT TENANCY—Athwal v. Athwal, 2025 BCSC 685 (petition for order for sale of jointly owned property under Partition of Property Act; parties have agreed joint conduct of sale not appropriate in circumstances and each party asserts they should have sole conduct; petitioners claim to sole conduct more compelling as they hold greater interest in property and have more at stake in sale; respondent's concern about potential conflict of interest arising due to petitioner's intent to bid addressed by terms of sale proposed by petitioners which promote transparent sale process and have been used in many past court orders; professional realtor to be retained, appraisal to be obtained and disclosed by petitioner; respondent entitled to obtain own appraisal and raise any concerns about marketing negotiation, price or sale process with Court; order for sole conduct of sale by petitioner subject to terms).
- STATUTORY EXCEPTIONS TO INDEFEASABILITY OF TITLE—ANY PUBLIC HIGHWAY—TITLE—BRITISH COLUMBIA—Rose v. Canadian Natural Resources Ltd., 2025 BCSC 1108 (action for damages for trespass and nuisance for unauthorized use of road running through plaintiff's land which pre-existed original Crown grant; portion of road on plaintiff's land not public highway as land used for road included in original Crown grant to predecessors in title; road not established by any means enumerated in definition of "highway" under Transportation Act such as expenditure of public money or common law dedication; on proper interpretation of Crown grant, road is private and forms part of plaintiff's land with right of public passage over road reserved; CNRL

installation of culverts on road not authorized by permit issued under *Energy Resource Activities Act* as landowner not provided with notice of permit issuance as required; CNRL not authorized to use portion of road on plaintiff's land beyond scope of permitted public right of passage and CNRL excessive user of easement by installing culverts; plaintiffs established legal interest in road and elements of trespass and nuisance without proving quantifiable loss; action dismissed).