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REGISTRATION OF TITLE TO LAND

DiCastris

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

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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), 12 (Leases), 13 (Mortgages), 15 (Lis Pendens), 17 (Registration) and 20 (Builders', Construction and Mechanics' Lien Legislation).

Highlights

- **LAND DESCRIPTIONS AND REGISTERED AND DEPOSITED PLANS OF SURVEY – PLANS OF SUBDIVISION – DEDICATION AND VESTING OF TITLE TO HIGHWAY AND PUBLIC RESERVE – *667895 B.C. Ltd. v. Delta (City)*, 2025 CarswellBC 2305 (B.C. C.A.)** (appeal from decision of City to refuse petition under Part 8 of *Land Title Act* for return of property dedicated for future road widening which has not been used for this purpose; City commenced process for closing road and selling land on basis no longer needed as municipal road without completing process by adopting bylaw; when appellant filed for cancellation of dedication, City adopted resolution in opposition on basis land required for highways purposes; written reasons relied on by City provide no explanation for contradictory position taken or why undeveloped dedication area must be preserved for highway purposes; resolution declaring unimproved dedication area required for highway purposes unreasonable and must be reconsidered; appeal allowed).
- **THE STATUTORY TRANSFER – PREFATORY – INTERESTS IN LAND TRANSFERABLE AND REGISTRABLE – PRESUMPTION IN FAVOUR OF TENANCY IN COMMON – *Reid v. Maynard*, 2025 CarswellOnt 16090 (Ont. S.C.J.)** (dispute over partition of family island subject to co-ownership agreement; sister seeks partition based on proportionate interests in property which has practical result of splitting island based on separate portions historically and currently used and occupied by each side of family; respondent brother opposes partition on basis of co-ownership agreement which provides all parties must consent to dealing with property; although co-ownership agreement is important factor when considering partition, arbitration provision does not waive or contract out of rights under *Partition Act* or oust court's jurisdiction to order partition; given historical use, changes in ownership, and shared intention to retain property in family, appropriate to exercise discretion to grant partition in proportion to respective ownership interests; applicant's surveyor plan proposes boundary line without any rebuttal evidence or objection from respondent; applicant's opposition to past partition application by brother and change of heart since explained by sister and does not establish current request for partition is vexatious or oppressive; partition into two parcels reflects status quo of separate residences for 35 years and enables applicant to leave her cottage to children and avoid potential liability arising from rental of brother's cottage on shared lands; order for partition subject to municipal approval as required by *Planning Act*).
- **MORTGAGES – REMEDIES OF MORTGAGEE – FORECLOSURE AND JUDICIAL SALE – FORECLOSURE – SETTING ASIDE ORDER NISI - *Innovation Federal Credit Union v. MacVicar*, 2025 CarswellSask 388 (Sask. C.A.)** (appeal from order prohibiting recovery of property insurance expenses in foreclosure action and requiring

amendment of order *nisi*; mortgagor defaulted on payment of fire insurance fees and terms of mortgage entitle mortgagee to pay fee and recover from mortgagor; judge concluded s. 10-11 of *King's Bench Act* creates statutory bar to inclusion of fire insurance expenses as amount owing under mortgage; s. 10-11 designed to mitigate harsh result acceleration clauses, not limit or define type of expenses mortgagee entitled to claim; error of law to ban recovery of insurance costs which are expressly authorized by plain wording of mortgage agreement and not barred by statute or common law; appeal allowed).