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TITLE SEARCH 101

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I. INTRODUCTION

This paper explores title to, and registration of, land and interests in land in British Columbia through an examination of the information displayed on title searches. The purpose of this paper is to familiarize local government staff with the information set out in a title search, what the information means and its relevance to the use, development, and enjoyment of land.

II. THE LAND TITLE REGISTRATION SYSTEM

Transfers of land and interests in land in British Columbia are accomplished through the Land Title Office. The Land Title Office is administered by the Land Title and Survey Authority, a statutory corporation created by the provincial government. The system of land title registration in British Columbia is called a "Torrens" system of land registration, named after its creator Sir Robert Torrens, and was established in the colony of British Columbia in 1870.

The pillar of a Torrens system of land registration is indefeasibility of title. "Indefeasible" means incapable of being annulled, voided, undone or forfeited. Section 23 of the *Land Title Act* provides that an indefeasible title is conclusive evidence against all persons that the registered owner of the land is entitled to fee simple ownership - the most complete form of real estate ownership recognized in Canada and other common law countries. Indefeasible title is subject to the exceptions set out in section 23, including federal, provincial and municipal taxes and charges, leases of less than three years, highways, and another owner's claim that they were deprived of title by fraud. Subject to these exceptions, every owner of land in British Columbia enjoys indefeasible title upon registration in the Land Title Office as a fee simple owner.

Notably, the near certainty indefeasibility provides is not extended to ownership of charges. Section 26 of the *Land Title Act* provides that a registered owner of a charge is only "deemed" to be entitled to ownership of the charge, leaving open the possibility that the Registrar may discharge a registered charge. As such, it is critical that a charge is reviewed to confirm that it is registrable, valid and enforceable prior to registration.

Prior to establishment of the Land Title Office, it was prudent for a person interested in purchasing land to make an exhaustive inquiry into the validity of title to the land proposed to be purchased by investigating the chain of title evidenced by deeds. A Torrens system relieves a potential purchaser of this cumbersome and uncertain process because the registry reflects the legal state of title. As a result, a potential purchaser or chargeholder's due diligence into title is limited to reviewing the title search of the property.

Every parcel of land in BC has a certificate of title or title search. The title search contains information regarding the general location of the land, the owner(s), legal notations affecting title, charges, liens and interests registered against the land, pending registrations, and other

information. The remainder of this paper will explore these components of a title search and the information that they provide to the reader.

III. REGISTERED OWNERSHIP

In many scenarios, you will see that the registered owner of the property is one or more individuals or corporations. There are important things to look for regarding registered ownership to help mitigate the local government's risk. Though not an exhaustive list, the following are examples of what you might see in the "Registered Owner" field of a title search.

A. Individuals

When an individual owns the property in their personal capacity, their name, occupation and address will be stated on the title search. When multiple individuals own the property together, the title search will either include the statement "AS JOINT TENANTS" or it will not. Ownership of the property in joint tenancy (commonly by spouses) means that when one owner dies, the deceased's interest in the property is transmitted to the surviving property owner(s) without the need for the property to go through the deceased's estate.

Where the title search does not list the owners as joint tenants, they are presumed to be 'tenants in common', meaning that in the event an owner dies, their interest in the property transfers in accordance with their estate (in accordance with their will if they have one, or by operation of law if not). Tenants in common are presumed to equally own their shares of the property, unless the title search states different proportionate interests of the owners (for example, a title search may show that one person's ownership is "AS TO AN UNDIVIDED 30/100 INTEREST" whereas the other person's ownership is "AS TO AN UNDIVIDED 70/100 INTEREST".

One scenario in which this information might be relevant to local governments is where the local government is negotiating an agreement with a property owned by multiple individuals. If one of those individuals dies during the course of negotiations, the nature of their joint ownership (joint tenant vs. tenancy in common) will impact the speed and administrative burden of updating property ownership so that the property interest can lawfully be dealt with by the appropriate surviving individuals.

B. Executor or Administrator of an Estate

When an individual property owner dies, and they did not own that property in joint tenancy, then it is necessary that a grant of probate - if the deceased had a will and a named executor is willing to act, or grant of administration, if the deceased did not have a will or no named executor will act - be obtained before the deceased's property interest can be dealt with. Obtaining a grant of probate or administration requires several steps including document completion and filing, and takes significantly more time to address than when the deceased owns the property in joint tenancy. Once that process is complete, the deceased's interest in the property may be transmitted to their estate, following which the registered ownership of the deceased's interest will appear in the name of their executor or administrator, with

additional words below the mailing address such as: "ADMINISTRATOR OF THE ESTATE OF JOHN DOE, DECEASED, SEE CB1234567". The document filed to effect this change is a certified copy of the grant of administration, a copy of which will be viewable in Land Title Office records.

Local governments should be mindful of certain restrictions that may apply when dealing with property owned by an estate. For example, subject to certain exceptions, the *Wills, Estates and Succession Act* prohibits distribution of an estate within 210 days following the issuance of a grant of probate or administration. Accordingly, where a local government seeks to purchase a property that is subject to that restriction, measures to protect the government's interests may be necessary.

C. Corporations and Societies

At law, corporations and societies have the ability to own real property, and accordingly, you will frequently see title searches revealing that the property is owned by one or more of those entities. One prudent step for local governments in these scenarios is to conduct searches of the owner entities to confirm that they legally exist.

The British Columbia *Business Corporations Act* provides that when a company is dissolved and the company has an asset that has not yet been distributed, that asset vests in the government unless (a) the asset is one in which the company is a joint tenant, in which case the asset vests in the other joint tenant, or (b) the asset is land located in British Columbia, in which case the asset is (subject to paragraph (a)) deemed to escheat to the government under section 4 of the *Escheat Act*. With application to BC societies, the British Columbia *Societies Act* includes similar provisions to the aforementioned provisions of the *Business Corporations Act*.

Dissolved BC companies and societies have no legal status to enter into contracts, and accordingly, dissolution of those entities may affect not only the status of assets that are subject to an agreement with a local government, but also the legal status of the agreement itself.

D. Partnerships

Various types of partnerships can also own real estate in British Columbia. However, unlike corporations, partnerships do not have separate legal existence and cannot be registered owners of property. Rather, registered ownership on behalf of the partnership must be held by its partners.

E. Trusts

Though not seen as frequently, it is possible that a title search will reveal that the registered owner(s) hold the property not in their personal capacity, but rather as trustees pursuant to a trust agreement. Where this is indicated on title, it means that a copy of the trust agreement that sets out its terms has been registered with the Land Title Office. In these scenarios, the ability of the trustee(s) to deal with the property is subject to the terms of the trust agreement.

Accordingly, local governments cannot necessarily contract with the registered owners acting as trustees in the same manner as if the trustees owned the property in their personal capacity. The terms of the trust agreement should be reviewed to determine the extent of the trustee(s)' authority to make commitments respecting the property. Appropriate steps should then be taken to ensure that any arrangements with the local government are satisfactory in light of that authority.

It is important to carefully review the entirety of the Registered Owner field of the title search. Where a property is held "In Trust", this information can be easy to overlook because it does not necessarily appear immediately following the trustee(s)' names. Instead, it may appear beneath the mailing address at the end of the Registered Owner field.

IV. DESCRIPTION OF LAND

This portion of a title search includes two key pieces of information: (1) the Parcel Identifier; and (2) the Legal Description.

A parcel identifier is a unique nine-digit number assigned by the Land Title Office that identifies a specific piece of land (parcel) in the British Columbia land title system. The parcel identifier (often referred to as a PID) does not change in result of routine property activities such as changes in ownership, registrations and releases of legal notations and charges on title, or updates to an owner's name. Parcel identifiers do change, however, in circumstances such as subdivisions of land and lot consolidations.

A property's legal description identifies the parcel's location and survey position within the province's survey grid. Legal descriptions for non-strata properties typically follow a format such as "Lot 1, Section 2, Township 3, New Westminster District, Plan EPP45678". Each piece of information in the legal description has a meaning relative to the parcel's location and further information that can be viewed relative to the creation of the parcel.

For example, with the foregoing legal description, Plan EPP45678 would identify the parcel boundaries and clearly identify the subject property as Lot 1. Within each "Township" as referenced in a legal description, there are 36 "Sections", set in an approximately 6 mile x 6 mile square grid. Generally, Townships are numbered sequentially north from the Canada/U.S. border, and Ranges run sequentially west from a meridian. "New Westminster District" in the foregoing example refers to the name of the historical land survey district.

You might also encounter legal descriptions that have exceptions. For example, if the end of the foregoing legal description said "EXCEPT PLAN EPP12345", that would mean that the portion of land identified by Plan EPP12345 is expressly excluded from the subject property. This would happen, for example, in a scenario where a road dedication plan (Plan EPP12345) is filed over the subject property, in which case the area shown on that road dedication plan is removed from title to that property and no longer part of a titled parcel.

V. LEGAL NOTATIONS

Legal notations appear on title between the description of the land and registered charges. Legal notations can have a significant impact on the rights and interests attached to a parcel of land. Some notations benefit the land they are registered on or merely provide information about existing interests in the land, while others may restrict the use of the property or otherwise impact the intended use of the property. Accordingly, it is important for local governments to give legal notations due consideration prior to dealings with a particular property. The following are examples of legal notations that you might see registered on a title search:

A. Notice of Interest, Builders Lien Act (S.3(2)), See BV123456 FILED 2026-11-20

While a claim of builders lien would be shown on title under the heading "Charges, Liens and Interests", there is an entirely different type of filing called a "Notice of Interest, Builders Lien Act (S.3(2))". This is a legal notation that, when registered, serves as a benefit to the property owner. Section 3 of the *Builders Lien Act* states:

> 3(1) An improvement done with the prior knowledge, but not at the request, of an owner is deemed to have been done at the request of the owner.
> (2) Subsection (1) does not apply to an improvement made after the owner has filed a notice of interest in the land title office.
> …

The *Builders Lien Act* defines "notice of interest" as follows:

> "**notice of interest**" means a notice in the prescribed form warning other persons that the owner's interest in the land described in the notice is not bound by a lien claimed under this Act in respect of an improvement on the land unless that improvement is undertaken at the express request of the owner;

The effect of these provisions is that, while typically an improvement made by a tenant is deemed to be at the owner's request (so long as the owner knew about the improvement), thereby subjecting the owner's interest in the land to lien claims, that is not the case after the owner has filed a Builders Lien Act Notice of Interest in the Land Title Office. Accordingly, once an owner has filed such a notice, prospective lien claimants have been warned that those lands are not bound by a lien claim unless that claimant's work was undertaken at the owner's request.

Filing this type of legal notation on a local government-owned property could benefit the government in, for example, a scenario where that property is leased out to a community-based non-profit society for their programming. If that tenant society independently engages a contractor during the course of their lease term to perform renovations in the facility and then fails to pay, that could result in the contractor filing a claim of builders lien against the local government's title to the property.

B. For Road Purposes Only

Section 35(11) of the *Community Charter* permits a council to, among other things, grant an easement in respect of a highway that is vested in the municipality. Because most municipal highways do not have titles, it is not possible to register an easement in respect of the highway without first 'raising title' to the road. Titles that are issued for the purpose of registering easements are endorsed with the foregoing "FOR ROAD PURPOSES ONLY" notation.

C. This Certificate of Title May be Affected by the Agricultural Land Commission Act

This notation means that the lands are very likely located in the agricultural land reserve ("ALR"). The impact this may have on a local government will depend on its intended use of the land. For example, if the local government owns the land and wishes to subdivide or to use the land for non-farm use, then the local government must apply to the agricultural land commission to do so, unless otherwise permitted by law. As applications to the Agricultural Land Commission take time and have uncertain outcomes, identifying this legal notation can be critical.

If a local government is seeking to register a statutory right of way in its favour over land located within the ALR, then the Land Title Office will not register that statutory right of way unless, and until, the local government has first submitted to the agricultural land commission a notification of the statutory right of way and provided proof of that notification to the Land Title Office.

D. Hereto is Annexed Easement CB1234567 Over Lot 1 Plan EPP123456

This type of legal notation indicates a benefit, rather than a burden, to the lands against which it is registered. That being said, it can nonetheless be important that a local government review its terms. Consider, for example, a scenario where government is seeking to acquire a piece of land and that land requires access over a portion of an adjacent piece of land to a well. In that scenario, the local government would want to review the easement terms to confirm that it grants all necessary rights over a sufficient area of land for its intended purpose.

E. Expropriation Act Notice, See CB1234567 Filed 2026-11-20. Dealings Restricted

Although in many scenarios the local government themselves may be the expropriating authority under the *Expropriation Act*, a legal notation of this nature indicates that expropriation proceedings have been commenced in relation to the property. The presence of this notation on title restricts certain filings in respect of the property, including statutory rights of way, easements or restrictive covenants affecting the part of the property that is being expropriated, as well as plans of subdivision. The local government will want to carefully review to confirm the nature of the expropriation as well as the party that has commenced it, which may be the Province, BC Hydro, or another expropriating authority.

F. Zoning Regulation and Plan Under the Aeronautics Act (Canada) Filed 01.01.75 Under No. M12345 Plan No. 54321

Legal notations of this nature are typically indicative that the property is within a certain proximity of an airport, and accordingly, restrictions are set in connection with the maximum height of any building, structure, or object, or any natural growth at the property.

G. Housing Agreement Notice, Local Government Act, S. 483 See CB987654

Under section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement with an owner of land. A housing agreement may include terms regarding the housing units identified in the agreement including, for example, the form of tenure of the housing units and the rents or sale prices that may be charged in relation to those housing units. Although the structure of a housing agreement may appear similar to that of a section 219 covenant and they are often filed in the Land Title Office at the same time, the significance of housing agreements is that they may include terms and conditions that cannot be enforced under a section 219 covenant. If a housing agreement is entered into or amended, the local government must file a notice in the Land Title Office that the land described in the notice is subject to the housing agreement. This notice appears as a legal notation on title. In practice, a housing agreement is often registered with an accompanying section 219 covenant, resulting in the housing agreement being reflected as both a legal notation and a charge.

H. This Title May be Affected by a Permit Under Part 14 of the Local Government Act, See CB111111

This indicates that notice (but not the permit itself) of a development permit, temporary use permit, or development variance permit has been filed. Local governments are required to file these notices following issuance of those types of permits. Note that local governments are also required to file notices respecting issuance of housing agreements, heritage revitalization agreements, heritage conservation area designations, heritage designation bylaws, tax sales and redemptions, tax exemptions agreements, and property in mountain resort improvement districts. However, in those scenarios, the legal notations will include the applicable statutory references rather than Part 14 of the *Local Government Act*.

VI. CHARGES, LIENS AND INTERESTS

One of the more important sections of a title search is the one labelled “Charges, Liens and Interests”, which lists all of the interests that are registered against title to a parcel of land. A landowner may transfer interests in their land to others, and those interests may be registered or unregistered. If an interest is unregistered, it means that the owner and the interest holder have come to an agreement that gives the interest holder certain rights with respect to the owner’s land, but that interest does not “run with the land” and it will not appear on a title search. An interest that does run with the land is one that binds future owners of the land to

the same agreement even if the new owner was not a signatory to the original agreement. The significance of an interest being registered is that it runs with the land.

A registered interest is often referred to as a charge. Once registered against title, a title search will display important basic details about that charge. Specifically, it will display the nature of the charge, its registration number, the date and time on which the charge was registered, the owner of the charge, and any miscellaneous remarks. To view the terms of a particular charge, one can use the registration number of the charge to pull a copy of the terms through the Land Title Office's online portal. If the charge is many decades old, the Land Title Office will likely provide a scan of the original paper documents that were filed to register the charge. Newer charges appear as a clear, easy-to-read PDF document.

Charges that have been registered can be released or discharged from title. Releasing a charge generally requires the signature of the charge holder. However, it may also be discharged under other authority, such as a court order, to cancel a registered charge obtained under section 35 of the *Property Law Act*. Even though a charge may appear as being registered against title, a review of the terms may indicate that the charge has actually expired.

There are numerous types of charges that can appear registered on title, with some being much more common than others. This section will outline the various charges that one is likely to come across when viewing a title search, provide a description of each one, and, where applicable, explain how local governments tend to use them.

A. Easements

An easement is one of the more common charges one may find registered against title to a parcel of land. If a charge is labelled as being an "Easement", it means that the charge is what can be more appropriately referred to as a common law easement. Easements are comprised of a servient tenement and a dominant tenement, which refers to parcels of land. An easement gives the owner of the dominant tenement certain rights over the servient tenement. It is important to note that the rights under an easement run with the land rather than with the owner. This means that if ownership of the dominant tenement changes, the new owner of the dominant tenement will be the person who is entitled to the rights granted by the easement rather than the person who was the owner of the dominant tenement at the time the easement was signed. Similarly, the servient tenement will continue to be burdened by the easement even when ownership of the servient tenement changes. If an easement appears as a registered charge on title, then it means that that parcel is the servient tenement. The benefit of an easement appears as a legal notation on title to the dominant tenement.

The rights granted in an easement are often related to access or nuisance. They are typically used to allow the owner of the dominant tenement to have access rights over the servient tenement, or to shield the dominant tenement from claims of nuisance from the servient tenement. Easements are often used when a parcel's driveway crosses over another parcel, in which case the owner of the property that needs access may, upon agreement, register an easement over their neighbour's property. An example of a nuisance easement could be in relation to a parcel of land that contains an industrial use that emits pollution. In that case, the owner of the industrial property may choose to obtain easements over nearby residential properties, the terms of which would allow the property to emit pollution while being legally shielded from nuisance claims.

Although easements grant a positive right to the dominant tenement (i.e., the right to do something to the servient tenement, such as having access), an important feature of easements is that they can only impose negative obligations on the servient tenement. In other words, they cannot be used to require the owner of the servient tenement to do something. Rather, they can only include terms preventing a servient tenement owner from doing something. For example, an easement can prevent a servient owner from obstructing a driveway serving the dominant tenement, but it cannot force the servient owner to repair that driveway. Although the terms of an easement may include a positive obligation on the part of a servient tenement, those positive obligations will not run with the land to bind future owners. If a dominant owner wishes for a positive obligation on the part of a servient tenement to run with the land, there are sometimes other tools available, such as covenants, which are a separate type of charge.

B. Statutory Rights of Way

A statutory right of way, sometimes referred to as an "SRW", is similar to an easement, with the defining difference being that there is no corresponding dominant tenement. The owner of the statutory right of way has certain rights over the parcel against which the statutory right of way is registered. Statutory rights of way are registered under s. 218 of the *Land Title Act*, and unlike easements, there is only a narrow group of persons who are entitled to be the holders of a statutory right of way, including local governments and utility operators. Similar to easements, the rights granted in statutory rights of way are often for the holder to have access over a particular area, such as for vehicle or pedestrian access, or to own and maintain utility works such as electrical or sewage works.

One might see a charge referred to as a "right of way". These are often historic charges that are similar in nature to statutory rights of way but were registered under the former legislation that governed them.

An important consideration with respect to charges is that they can be registered against title to the entire parcel of land, often referred to as a "blanket" charge, or in some cases they may be registered against title to a portion of the land. This is perhaps most commonly seen with statutory rights of way.

A few things could cause a charge to be registered against title to only a portion of land. One example involves subdivision: if two parcels are consolidated to form one new parcel, and only one of the original two parcels had a particular charge registered against title, then the newly-formed parcel will also contain that charge on title, but the "remarks" section will specify that the charge applies only with respect to that area that was the former parcel against which the charge was registered. What could also happen is that a new charge can be filed in the Land Title Office such that it is only registered against title to a portion of the land in the first place. For example, if a local government wishes to obtain a statutory right of way for its utility works, but only needs rights over a portion of land, it may commission a survey plan that outlines the area where the works are or will be located. When the statutory right of way is registered, it can be registered alongside the survey plan, in which case the statutory right of way will apply only to that area shown in the plan. These are often referred to as charges that apply to a "part in plan", and are useful when a party only needs rights over a portion of land and a landowner wishes to have as little of their land burdened by the charge as possible. Finally, when a charge is discharged, it is possible to release it from a portion of the land but keep it registered against the remainder. This might happen, for example, if a blanket statutory right of way for utility works is registered, the utility works are subsequently constructed, and the statutory right of way is then discharged except as to that area shown in a survey plan where the utility works have been constructed. Similar to statutory rights of way, easements may also be registered over only part of a parcel.

C. Covenants

Although the word "covenant" is a synonym for an agreement, it is also a specific type of charge that may appear on title. A species of covenant of particular relevance to local governments are covenants registered under section 219 of the *Land Title Act*. The defining feature of section 219 covenants is that they can be used to impose both negative and positive obligations on the landowner, with the caveat that the scope of those obligations is limited by section 219 of the *Land Title Act*. These include, for example, provisions in respect of the use of land or a building on the land, or that land is not to be built on or subdivided except in accordance with the terms of the covenant. Section 219(6) also explicitly allows for a covenant to include a provision in which the landowner provides an indemnity to the covenant holder. Only a specific group of persons, which includes municipalities, regional districts, and local trust committees, is entitled to be the owner of a covenant. Another distinguishing feature of covenants is that they need not identify a benefitting dominant tenement.

Local governments make use of covenants for a variety of purposes. One of the more common uses is in the context of land development and rezoning. For example, when a local government is prepared to rezone a parcel of land but the owner is unable or unwilling to fulfill certain zoning requirements until after the adoption of the rezoning bylaw, a section 219 covenant may be registered on the parcel to secure those requirements. These could include, for example, that the land is subdivided in a particular manner. Another common example is if a local government is registering a statutory right of way and wishes to obtain an indemnity that will bind future owners, then a covenant may be registered alongside the statutory right of way.

Restrictive covenants are another type of charge that may appear on title but are different from section 219 covenants. Restrictive covenants arise out of common law and, as the name suggests, restrict the use of the land against which the restrictive covenant is registered for the benefit of another parcel. A common example of the type of restrictions one might find in a restrictive covenant are terms prohibiting a certain type of business from operating on the land. A restrictive covenant must burden a parcel for the benefit of another parcel.

D. Leases

A lease is a relationship between a property owner and tenant in which the tenant obtains a possessory interest in the owner's land. Because it creates an interest in land, a lease may be registered as a charge against title to land. In practice, typically only long-term or commercial leases are registered. Standard residential leases are rarely registered. An owner's indefeasible title is subject to a tenant in possession under a lease of less than 3 years, meaning that such a lease binds future owners despite not being registered. A local government should perform due diligence prior to acquiring land to ensure no unregistered lease will affect the local government's plans for the land.

Licences are sometimes confused with leases, but they are fundamentally different. Whereas a lease provides a tenant an interest in land, a licensee receives no such interest. Instead, a licence provides a licensee a contractual right to use land in a certain manner that would be a trespass if not for the licence. A common example of a licence would be the owner of a parking lot allowing a driver to temporarily park their vehicle – the driver in this case has a licence to use a parking stall. Because licences provide no interest in land, they cannot be registered in the Land Title Office and will be of no effect if the land is transferred.

E. Mortgages and Assignments of Rents

When a parcel owner has mortgaged their property, their lender will register a mortgage against title to the land. The owner of a mortgage will often be identified as a major bank, credit union or other financial institution.

An assignment of rents is sometimes found as a separate charge that is registered concurrently as a mortgage. They are additional forms of security for the mortgage holder, typically allowing for the mortgage holder to collect rent directly from tenants if the property owner were to default on their mortgage.

F. Options to Purchase

An option to purchase, sometimes referred to as "option" or "OTP", is the right, but not the obligation, to purchase land. Options to purchase are structured in such a way that they allow the holder of the option to buy the land against which the option is registered at some point in the future at either a specified price or at a price that is to be determined using a specific method. Options to purchase typically include an expiry date and sometimes include conditions that must exist in order for the option holder to exercise the option. Once an option to purchase is exercised, the landowner and option holder enter into an agreement in which the option holder buys the parcel. An option to purchase does not restrict the owner of land from selling the land to someone else. For this reason, it is possible that by the time the holder of an option to purchase exercises the option, the owner of the land may be different from the person who initially agreed to the registration of the option.

Options are sometimes used by local governments for highway reservations, where the local government wishes to give itself the ability to acquire land in the future in relation to highway expansion. They are also sometimes used when a local government wishes to ensure that land is being used for a particular purpose. For example, if a local government is transferring land to an entity with the aim of that entity establishing a supportive housing facility on the land, the local government may choose to register an option that allows it to buy back the land if the land is not being used for the intended purpose.

G. Rights of First Refusal

A right of first refusal, sometimes referred to as an "RFR", gives the holder the right to purchase the parcel prior to a prospective buyer. The way a right of first refusal typically works is that if the owner of the land receives a bona fide offer from a prospective buyer to purchase the land, the holder of the right of first refusal has the right to step into the shoes of the prospective buyer and purchase the land instead.

Rights of first refusal are sometimes confused with options to purchase. An option to purchase allows the holder the right to purchase the land in the future, whereas a right of first refusal provides no such option. Instead, a right of first refusal only triggers when the parcel owner receives a bona fide offer from a prospective buyer, in which case the holder of the right of first refusal can then decide whether to exercise their right to purchase the land or to allow the prospective buyer to purchase it instead. In this way, a right of first refusal allows the holder the chance to purchase land if it were to come on the market.

H. Exceptions and Reservations & Undersurface Rights

When land is transferred, the transferor may except or reserve certain rights from being transferred to the new owner. These would be registered as charges labelled "Exceptions and Reservations". A common example is when the Crown reserved mineral or other similar rights at the time of the original Crown grant. These types of rights may also appear as "Undersurface Rights".

I. Modification

When the terms of a registered charge are amended, the parties to the original charge can discharge the original charge and then register a new one. Alternatively, they can keep the original charge registered against title and, as a separate charge that appears on title as a "Modification", amend the original charge. The original charge and the modification are meant to be read together, with the modification detailing the changes to the original charge.

J. Priority Agreements

The information shown on a title search includes the registration date and time of a charge. Charges typically rank in priority based on when they were registered, with earlier charges taking priority over later charges. Therefore, if there were a conflict between two charges, the one that was registered earlier will take priority. If a new charge were to be registered against title to land and the owner of the new charge wished for their interest to take priority over an existing charge, the owner of the new charge could register a priority agreement alongside their new charge. These are often found when a local government wishes to register a new statutory right of way or covenant against title to land, but a mortgage is already registered. A mortgage presents a significant risk to a local government's subsequently registered charge. If the lender forecloses on the mortgage, the lender is entitled to take title to the property clear of all charges registered subsequent to the mortgage.

To avoid this risk, a local government will often register a priority agreement to give their new charge priority over the existing mortgage. In order for a priority agreement to be successfully registered, the owner of the existing charge (in this example, the bank that is granting priority to the local government's new charge over the bank's existing mortgage) must sign the Land Title Office form that would be used to register the priority agreement.

VII. MISCELLANEOUS TOPICS

A. Pending Applications

Near the bottom of every title search is a section for pending applications. This is where pending applications for transfers or the registration of charges are displayed. It is critical to review this section of a title search before dealing with a parcel because pending applications

may, upon reaching full registration, markedly alter the state of title to the parcel. In particular, pending applications unaccounted for may result in a statutory right of way or covenant being ranked in lower priority, potentially imperiling the charge.

B. Strata Common Property Record

Section 252 of the *Strata Property Act* requires that on the deposit of a strata plan in the Land Title Office, the registrar must establish a common property record for the strata corporation. The common property record for a strata corporation serves a similar function to a title search for an individual strata lot, by identifying legal notations and charges registered against the strata's common property. Unlike individual strata lot titles, which identify the registered owner and interests affecting that strata lot, the common property record lists charges and other interests that separately affect the common property. Accordingly, when conducting due diligence for the prospective purchase of a strata lot, it is important to review the common property record in addition to the strata lot title.

C. Air Space Parcels

At common law an owner of land owns the surface, the subsurface and the sky above to a height reasonably necessary for the owner's use and enjoyment of the property. However, it is possible to vertically sever ownership of a parcel by subdividing the parcel into air space parcels that are stacked above or below each other. To do so, an owner must have a surveyor create a volumetric survey plan in compliance with the *Land Title Act*, obtain approving officer approval of the plan, and concurrently register various easements for the benefit of the air space parcels, which may include easements for access, services and utilities, parking, maintenance, and structural support.

Once the air space subdivision plan is registered, the Registrar issues a title for each air space parcel created by the plan as well as the remainder parcel. An air space parcel is identified as such in the description of land portion of a title search. Air space subdivisions are relatively complex and an in-depth examination of them is outside of the scope of this paper.

D. Duplicate Indefeasible Titles

Also indicated near the bottom of every title search is whether a certificate of duplicate indefeasible title has been issued. Every owner of land in fee simple that is not subject to a mortgage or registered agreement for sale is entitled to apply for a certificate of duplicate indefeasible title. The advantage of obtaining a duplicate indefeasible title is that once issued, the Registrar will not accept an application that would alter the state of title until the duplicate is surrendered, thereby protecting the owner's interest against fraud. However, outstanding certificates of duplicate indefeasible title can present an obstacle when the owner wishes to grant a right of way, new mortgage or otherwise deal with the land. If the duplicate cannot be located, the owner must apply to cancel it, which can be a cumbersome and costly process, before dealing with the land.

VIII. CONCLUSION

We trust that this paper has provided local government readers with a useful overview of title searches and the trove of information they provide, and the various notations and interests that can be registered against title to land in British Columbia.

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