



Direction from the Registrar of Titles On Witnessing Documents by Lawyers for Submission to the Land Registry

March 18, 2020

Questions have been raised by lawyers about the witnessing of documents for submission to the Land Registry during this time of rapid change in public health response to COVID-19.

On March 16, 2020, the Law Society of Saskatchewan issued a Notice to the Profession on Client Interaction. The Notice deals broadly with all aspects of interaction with clients, and includes all types of documentation where the execution must be witnessed by a lawyer, for which Land Registry documentation is only a small subset.

In its Notice, the following excerpt provides Law Society Direction dealing with witnessing documents:

- If you can see the client in-person while they are signing, you do not have to be in the same room as them. A suggestion is to have the client drive to your office and remain in their vehicle. You attend outside the car and watch them sign the document. Have the client immediately take a photograph of the document on their phone and email it to you right away. The client should then retain the original document until a later time.

Under *The Land Titles Act, 2000* (“LTA, 2000”) while submissions to the Land Registry that require authorizations must have “wet ink” signatures (application of pen to paper) and the witnessing of those signatures, the Land Registry does not require the submission of original documents for registration, instead examining and registering based on scanned images of the original documents.

Consequently, these requirements for registration may be met by following the direction from the Law Society in the Notice. In the case of the Land Registry, this could mean after a client has executed the documents with the lawyer witnessing the execution in the manner directed by the Law Society, the client may email the lawyer a clear image of the signed document, whether by fax, email or photograph.

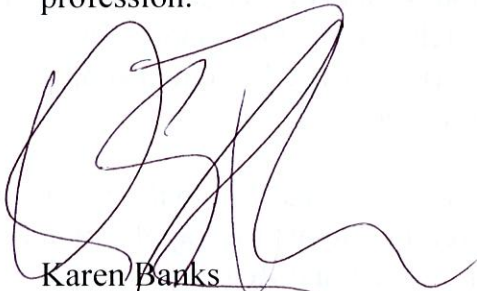
The lawyer may then print out the signed document, append the lawyer's own signature and scan the authorization for submission to the Land Registry.

There has also been some question about the requirements for execution of mortgage documents. To clarify, the LTA, 2000 does not govern the execution of mortgage documents. The LTA, 2000 authorization requirements apply to documents that are registered in the Land Registry and that require an authorization for that registration. In short, the LTA, 2000 authorization requirements apply to transfers, interest assignments, amendments and discharges.

In general terms, *The Electronic Information and Documents Act, 2000* ("EIDA") governs the electronic execution of mortgages or other documents that may be filed with the Land Registry as part of the disclosure of an interest in land, that is, those documents provided to the Land Registry behind a "Begin Attachment" sheet. If, for example, the parties choose to enter into a mortgage agreement that is electronically signed and to include that agreement behind a "Begin Attachment" sheet, the Registry will not reject an interest registration based on the electronic signature. The Registry will not be examining or determining the validity of the mortgage agreement.

I hope this is of assistance to the profession as it manages the provision of service to clients in these challenging times.

As conditions continue evolve quickly, in the event that there are further implications for the Land Registry there will be further communication to the profession.



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