



SOLICITORS

REGISTRAR'S NOTIFICATION OF DEALING

Queensland is once again at the leading edge of Legal reform with the introduction of the Land Title Act 1994. This Act is the vehicle which has revolutionised the methods and systems of dealing with the registration of title to land within Queensland. This act will carry us well into the Twenty first Century with state of the art computerisation of all registrations of land transactions. Access to processing will be available anywhere within Queensland via a personal computer. This by necessity will involve us all in a total change of thinking in the ways in which we approach the task of financing and transacting the conveyance of property.

As all information is now captured and processed upon computer it is no longer necessary to have a Certificate of Title issued. This has caused some consternation amongst those dealing regularly with property. It must be realised however that the Certificate of Title that was issued to the owner of property under the old system was only one of two copies of the title (called the outstanding or duplicate title) and that the title that was the prime source of information was retained by the titles office for their records. Essentially nothing has changed, the titles office has merely electronically captured the information of their title.

It should be pointed out that there is still the ability for a proprietor to have a formal certificate issued in their name but this is not essential and indeed a separate charge is made for the request for this title should the owner of a property require a Title.

SETTLEMENT NOTICE

Until standard protocols are in place and the system fully up and running, it was felt that there is a need for a form of protection for parties to transactions. A procedure has been designed whereby a form called the SETTLEMENT NOTICE is lodged at the Titles Office.

The Settlement Notice is a form which is used to notify anyone who checks the title register of all potential or imminent dealings on a particular property. The purpose of this is to protect the interests of those who have a contract pending on a property or some other involvement (such as potential Financiers).

The Settlement Notice works in much the same way as a caveat in that it notifies anyone who checks the title register that an intended settlement is imminent, and prevents all dealings (except those specified in the Settlement Notice) on the land in question.

The Settlement Notice will only be available in two circumstances:-

1. Where there is a transfer of land.
2. Where the Old (Outstanding or duplicate) Certificate of Title has been cancelled and no new Certificate of Title has been issued.

THE EFFECT OF LODGING A SETTLEMENT NOTICE:

Once the Settlement Notice has been lodged at the Land Titles Office it will be given a dealing number and will be filed awaiting lodgement of your transfer (or other expected dealing).

Except for a few limited exceptions registration of a Settlement Notice will "freeze" the title for a period of 2 months or until registration of the instrument nominated.

The Settlement Notice will be revealed on every search of effected titles.

When a document is lodged in respect of the title then the Settlement Notice will be electronically retrieved and the details compared with the document lodged. If they agree, then that document will be registered and the Notice will be cancelled, if the details do not agree then the Settlement Notice will prevent registration of the document.

You should note that this Settlement Notice will not prevent the registration of the following instruments:

1. An instrument which has the consent of the person who lodged the notice.
2. Any instrument specifically excluded in the Settlement Notice.
3. Instruments which will not adversely affect the transactions.
4. Any instrument lodged before the Settlement Notice.

The registration fee for filing the Settlement Notice is \$20.00 and there will be the usual professional costs involved in the preparation and subsequent filing of the notice.

Only one Settlement Notice per transaction can be lodged and (as the Settlement Notice is valid only for 2 months) if your settlement extends beyond this period you would be unprotected for that length of time.

THE ALTERNATIVES

The other method of protecting your Title to the property is to file a Caveat. This has much the same effect as the Settlement Notice but prevents registration of any unauthorised dealing in respect of the block of land for three months.

The registration fee for a Caveat is \$87.00 and again there are the usual professional costs involved in the preparation and registration of the documentation.

Whilst a Caveat is a more expensive way to protect your interests you should note that the lodging of a Caveat is a more secure way to protect your interests in that it does not have the same time restrictions placed on its validity.

To protect your interests your alternatives under the new Land Title Act are as stated below.

1. Do nothing (not recommended)
2. File a Settlement Notice (adequate inexpensive protection)
3. File a Caveat (more expensive but better protection)

General Advice Only

This brochure has been designed as a general guide only and because of changes in the law should not be relied upon without first checking with your legal adviser. Should you be involved in a property transaction you should seek legal advice to clarify the best method to achieve suitable protection whilst settlement is pending.