

HOW TO PREVENT SPLINTER TITLE APPLICATION FROM BEING REJECTED

THE CERTIFICATE OF TITLE

1. The land to be sub-divided or developed must be described and identified by survey diagram in a Certificate of Title under the Registration of Titles Act.
2. As soon as possible after acquisition of the property a commissioned Land Surveyor is to be instructed to effect a boundary survey to verify that the boundaries of the land on ground correspond with the boundaries in the title.
3. Where the boundary survey discloses fencing in of unregistered land or encroachments then action should be taken as soon as possible to perfect the title so that such defects are cured before the time to lodge a deposited plan. Subdivision titles (splinter titles) cannot be issued for lots that include unregistered land or encroachments.
4. Check to ensure that covenants prohibiting this type of application have been modified and/or discharged on the Certificate of Title.

THE SUBDIVISION APPROVAL

1. The subdivision/development scheme as approved by the Local Planning Authority/Parish Council must be faithfully followed, that is it should contain the same number of lots sanctioned by the Local Authority and the laying out of the lots and the road alignment.
2. If there is any deviation from the approved subdivision plan then a resolution of the Authority approving the deviation/amendment must be obtained before the Director of Surveys pre-checks the plan of subdivision.
3. The developer must carefully peruse the conditions of approval by the sanctioning authority and ensure the conditions are satisfied before lodging a plan for deposit under Section 126 of the Act.
4. Where the conditions of approval require confirmation of the alignment of the roads and laying out of lots on ground by the Parish superintendent or the Local Planning Authority and adjustment of the pre-checked plan a statutory declaration by the appropriate official

confirming the alignment and laying out is to be obtained and presented with the plan for deposit.

5. The subdivision approval submitted must be the original bearing the signature and the Seal of the local authority or be a certified copy thereof.

THE DEPOSITED PLAN

1. Having perfected the Title plan and obtained subdivision approval the land Surveyor will prepared a subdivision plan showing the land sub-divided into lots and showing the roadways in accordance with the approved sub-division plan.
2. The Land Surveyor will present the plan to the Director of Surveys to be certified in accordance with the Land Surveyors Act.
3. The certificate of the Director of Surveys confirms that the plan is accurate and conforms to the provisions of the Land Surveyors Act and the Regulations. It does not confirm compliance with the sub-division plan as approved by the Parish Council/Planning Authority
4. You are now ready to deposit your plan for sub-division.
5. The pre-checked Plan is deposited at the Office of Titles with a statutory declaration by the land surveyor verifying the accuracy of the plan and that the lots and roadways have been marked out on the ground as required by the Land Surveyors Act, a certified copy of the Resolution of the Parish Council approved by the responsible Minister and the statutory Declaration of the appropriate Officer of the Council or the Council under its Seal confirming the alignment of the roadways and laying out of the lots on ground in accordance with the approved plan of sub-division.
6. Ensure that where the conditions of approval indicate that any lot is to be splayed (or that an area for road improvement be reserved) that this has been done on the plan.
7. When the process is completed you will be notified of the identifier allotted to your plan. This identifier must always be used to gain access to the plan quickly.

THE APPLICATION FOR SUBDIVISION TITLES (SPLINTER TITLES)

1. The form of application for surrender of a Certificate of Title in exchange for splinter titles is readily available on the NLA Website without subscription.
2. The application form is a simple one and is to be completed accurately and as concisely as possible without the addition of superfluous words. Answer the questions, if any as concisely as possible.
3. The Declaration, inter alia, must describe the land, the subject of the application: -
 - a. State the value of the lots (and we do ask that a reasonable market value be stated)
 - b. State the plan examination number, the deposited plan number and or date of deposit
 - c. State the lots for which the Titles are being applied for together with the respective share in any Common area where applicable.
4. Where the land is owned by a Company, the Company should make the application and the rest of the declaration be made by the directors or appropriate Officer authorized. Such persons must expressly state that they have been duly authorized to make the declaration on behalf of the company.
5. Where mortgages are on the Title, the application must be expressed to be subject to same and consent of the mortgage company submitted unless discharges of mortgages are being submitted.
6. The application is lodged at Office of Titles together with (a) the Certificate of Title and the plan annexed to the Certificate, (b) a manager's cheque for the fees to be assessed based on the value of each lot and the roadway and, (c) where the conditions in the resolution of the Council approving the subdivision restrict the issue of Titles until the infrastructure works and/or seeding has been completed, then a certificate from the Parish Council confirming the satisfactory completion of the works.
7. Titles will not be issued unless the Parish Council Certificate properly Sealed is presented.

Where developers wish to have restrictive covenants endorsed on the face of the Certificate of Title a draft transfer form to be used must be submitted with an undertaking that in the transfer of each lot the form

transfer will be used. Restrictive Covenants/Easements/Right of Way - These are grants of interests in land and so are required to be the subject of a grant or transfer and cannot be properly imposed by inclusion in a surrender application.

8. The transcribing of the restrictive covenants on the Certificate is not a certification by the Registrar that the covenants are binding or enforceable.
9. The enforceability of restrictive covenants is determined by interpretation of the instrument purporting to create a binding agreement and the Registrar does not attempt to do so.

FORMATION OF STRATA CORPORATIONS

1. The regulations to the Registration (Strata Titles Act) require that SP should not be creased, (folded) and be free from discoloration and blemishes. They may be rejected for this.
 - a. The stamp of the local authority must appear on each strata sheet.
 - b. Sheets 15½ in Length by 10" in width, Margin 1½ "on left side and ½" on right side, top and bottom.
 - c. Surveyors Certificate should be completed and signed.
 - d. Unit entitlement must be in whole numbers.
 - e. Address for service must be stated on the strata plan.
2. There are no formalities required for the formation of Strata Corporation:
 - a. Immediately upon registration of a Strata Plan by the Registrar of Titles a body is incorporated under the Registration (Strata Titles) Act.
 - b. The Corporate body is named "The Proprietors Strata Plan Number."
3. The powers and duties of the corporation and the constitution of the Management Board are found in the First and Second Schedules to the Act.

4. The First and Second schedules may be amended to suit any particular circumstance by the corporation on a resolution of the owners of the individual strata lots in the Strata Plan provided such amendment does not violate any mandatory requirements in the Act.
5. In Those instances where any amendment to the schedule will result in the loss of a proprietary right by the lot owner without payment of compensation the resolution is unanimous. In other cases the resolution is by majority vote calculated on the unit entitlement of the strata lot.

The customer service officers are always available to provide guidance where there is any doubt or uncertainty.