

TO: ALL LEGAL PRACTITIONERS

**RE: MULTIPLE REJECTION OF LOST TITLE APPLICATIONS**

We are aware of the concerns that have been raised by you, our valued customers, regarding the multiplicity of rejections of Lost Title applications that are lodged here for processing. Like you, this matter causes us deep concern and we stand ready to put any necessary measures in place, to effectively address this issue.

In keeping with our renewed thrust to facilitate the smooth and efficient processing of these transactions, we now take the opportunity to point out some of the main reasons for rejection of these applications, these are:

- Outstanding caveats
- Inconsistencies between the names of the applicants and the names as they appear on the Certificate of Title
- Insufficiency of details relating to the place, date and circumstances under which the duplicate Certificate was lost
- Lack of supporting documentation relating to the loss, such as statutory declarations from persons who had access to the title
- Improper witnessing of the application, which must be witnessed by a Justice of the Peace, a Jamaican/British Consular Officer; or a Notary Public
- Absence of the certificate relating to the commission of the Notary Public who may have witnessed the application
- Not dating the application

Please find attached for your additional assistance, a Standard Checklist of items that must be complied with before submitting the lost title application. You may also refer to the following documents which are available on our website ([www.nla.gov.jm](http://www.nla.gov.jm)): (1) Lost Title Application Form (2) Lost Title Manual and (3) Lost Title Application Question and Answer Form.

Further, we intend to embark on a series of presentations about the Lost Title application procedure, to provide greater clarification for you; and also to allow you a forum in which to raise your concerns regarding this process.

We hope that there will now be a significant improvement in how these matters proceed in future, as you help us to serve you better.

## CHECKLIST FOR LOST TITLE APPLICATIONS

- **Description of Land** - Identification of the land by reference to the Place Name, Parish, Lot Number (if applicable) and Volume and Folio Number
- **Applicants name** – Consistent with that on title
- **Registered Proprietor** - If the registered proprietor is a company or corporation sole, then an authorized officer should declare to the facts of the loss or destruction
- **Value of the land** - True and actual value of land to be stated
- **Details** of where it was kept, approximate date last seen and by whom must be stated
- **Possession of duplicate title** - If the duplicate was held by any person other than the registered proprietor, the facts as to why it was so held must be provided by separate Statutory Declaration.
- **Access to duplicate title** – If any person other than the registered proprietor had access to the duplicate, their knowledge of the whereabouts/loss of the duplicate must be set out in a separate Statutory Declaration
- **Deposit of Title** - All the Statutory Declarations lodged should negative the deposit of the duplicate as a security or lien, except where it was so held.
- **Undertaking** to return duplicate if later found
- **Dispensation** - Dispensation clause must state additional applications being lodged
- **Operative clause** – Requesting that the Registrar cancel the Certificate of Title and issue a new one in its place
- **Attested of application** – to be done in accordance with the Voluntary Declarations Act. Please note that attorneys-at-law are not one of the functionaries authorized to witness Statutory Declarations.
- **Date** of Application

## PERSONS QUALIFIED TO WITNESS DOCUMENTS

Section 152 of the Registration of Titles Act, lists the persons who are qualified to witness documents for registration under the Act. In Jamaica, these are:

- The Governor General
- Judges of the Supreme Court
- Justices of the Peace
- The Registrar of Titles
- Notaries Public
- Attorneys-at-Law

Where it is required by law that a **Justice of the Peace must witness** a document, for example by **Statutory Declarations made by virtue of the Voluntary Declarations Act**, please note that the following persons are empowered to witness documents, in the same capacity as Justices of the Peace:

- **Resident Magistrates** by virtue of section 15 of the Judicature Resident Magistrate's Court Act: "Every Magistrate shall be *ex officio* a Justice of the Peace for every parish in the Island."
- **Members of Parliament** by virtue of section 3 of the Attestation of Instruments (Facilities) Act: "...every Member of the House of Parliament shall, so long as he is a Member of the House of Representatives, have the same authority as a Justice of the Peace to administer, take and receive the oath, affidavit, declaration or affirmation of any person..."
- **The Commissioner of Corrections, each Director and Superintendent of Corrections** by virtue of section 9 of the Corrections Act: "The Commissioner, each Superintendent and each Director are *ex officio* Justices for every parish in the Island."

Section 152 of the Registration of Titles Act also sets out the qualified persons who can witness documents that are executed outside of the island. These are:

- In Great Britain or Northern Ireland – The **Mayor or Deputy Mayor; Chief Magistrate or Deputy Chief Magistrate** of any city, borough or town; or a **Notary Public**.
- In any other Commonwealth country – The **Governor** or persons exercising the functions of Governor, the **Commander-in-chief**, a **Judge** of any court, the **Mayor or Chief Magistrate** or any city or town; or a **Notary Public**.
- In any foreign state or country – The **Jamaican or the British Consular Officer**, or a **Notary Public**

Please note that the **Oaths (Foreign Countries) Act** also contains a provision for the attestation of documents outside of Jamaica. It states:

"Every Jamaican or British ambassador, envoy, minister, charge d'affaires, and secretary of embassy or legation exercising his functions in any foreign country and every Jamaican or British consul general, consul, vice-consul, acting consul, proconsul and consular agent, acting consul general, acting vice-consul and acting consular agent exercising his functions in any foreign place may, in that country or place, administer any oath and take any affidavit and also do any notarial act which any notary public can do within this Island..."