

### **Why Conduct a Title Search?**

Persons dealing with an owner of registered title must conduct a Title search at the Office of Titles/Land Titles Division of the National Land Agency to verify the ownership of the title and any encumbrances and so protect oneself against improper dealing before completion of any sale or loan.

**IT IS UNSAFE TO RELY ON THE DUPLICATE CERTIFICATE OF TITLE.**

### **Why Can't I rely on the owner's duplicate Certificate of Title?**

- The Registrar of Titles may have dispensed with the production of the duplicate Certificate of Title and registered dealings on the original Certificate of Title only.
- Caveats, Orders of the Court or some other obstacle may be registered on the original Certificate of Title only.
- Instruments lodged for registration but not yet completed may be discovered.

### **Strata Titles**

For Strata Titles a search should always be conducted against the Strata Plan as encumbrances such as easements, restrictive covenants are registered against the Strata Plan only. The Bye-laws of the Strata Corporation and any modifications thereof or modifications to the lots or buildings are registered against the Strata Plan only.

### **What is available to be searched at the Titles Office?**

The Land Titles Division is a public office and upon the payment of the appropriate fee customers may search the following documents:

- Certificates of Titles;
- Registered Instruments such as transfers, mortgages, leases etc,
- Caveats and,
- Strata Plans and Deposited Plans.

**APPLICATIONS TO BRING LAND UNDER THE OPERATIONS OF THE REGISTRATION OF TITLES ACT MAY NOT BE SEARCHED EXCEPT WITH THE WRITTEN CONSENT OF THE PERSON DEPOSITING THE APPLICATION OR AN ORDER OF THE SUPREME COURT.**

### **What's on the Certificate of Title?**

You will find:

- the names of the owners of the land;
- a "Volume" and "Folio" number. This is a reference number used to locate any particular Certificate of Title entered in the Register Book;
- The property description stating the name of the place, the lot number or acreage of the land and the parish;
- easements;
- mortgages;
- caveats; and

- restrictive covenants.

## **Easements**

An easement is a right granted by an owner over his land to the owner of another parcel. The right may take many forms but the most common is a right of way, that is, the right of one owner to go and pass and re-pass over the land of the grantor without hindrance. It can restrict the ability to use the land, for instance, whether there is a right of way across the land or a part of the land is reserved for supplying power or sewerage drainage. An easement is important because it might mean you can't build over it.

Incumbrances above referred to:-

1. Grant dated 10th January, 1939 from Saint Catherine Estates Limited to Frank Carol Billingslea of the Parish of Saint Andrew, Planter the former registered proprietor of the lands comprised in Certificates of Title registered at Volume 133 Folio 59 and Volume 353 Folio 25 respectively ( hereinafter called "the said land") his heirs and transferees in perpetuity free way leave and right of passage along the existing canals on the land above-described for all the water that the said land shall from time to time secure from the Rio Cobre Irrigation Works not to exceed however Four Hundred Cubic Yards per hour (except with the consent of Saint Catherine Estates Limited first obtained) for the use of the said land such water to be made available to the said land through the syphon under the Jamaica Government Railway situate at Sydenham aforesaid.

## **Mortgages**

A title search will tell you whether the owner has a mortgage over the land. It will tell you the name of the person or financial institution which has the mortgage and the principal amount secured by that mortgage. If the mortgage has been paid up or discharged it will also be entered on the title as a Discharge of Mortgage.

Incumbrances above referred to:

Mortgage No. 1109090 registered in duplicate on the 23rd day of October, 2000 to TRAFALGAR COMMERCIAL BANK LIMITED at 60 Knutsford Boulevard, Kingston 5, Saint Andrew to secure the monies mentioned in the mortgage stamped to cover One Million Dollars with interest. By this another registered at Volume 1019 Folio 602.



## **Caveats**

A caveat is an injunction restraining the Registrar from entering a change of interest. It means that someone is claiming an estate or interest adverse to the owner and wishes an opportunity to establish the interest before any change of ownership. Example, the registered owner has a personal loan and this is secured against the property. When a Caveat is lodged it prevents any dealings with the Title, for example, a transfer or mortgage will not be registered if there is a Caveat on the Title. The only exception is where a consent or withdrawal of caveat is obtained from the Caveator or his duly authorized agent or in the case of caveats lodged by a Utility Company, usually to protect an easement of way for power or water lines, where the instrument is made subject to the caveat.

If there are any caveats on the title, it is important to get legal advice before you buy or lend money for which the title is to be used as a security. Your lawyer should make sure that:

- the dealing can be registered subject to the caveat, this applies mainly to caveats lodged by the Power Company to protect an easement for the supply of power;
- the caveat is capable of being removed by the person who lodged it; and

- it will be removed before or at the time you present your dealing for registration (this makes sure that you have a good title to the property).

Caveat No. 1276975 lodged on the 26th day  
of January, 2004 by DELYON HEWLING  
estate claimed Equitable Mortgagee.

### **Covenants**

A restrictive covenant is a solemn agreement that must be observed by each new buyer of a property. It can affect vacant land. It restrains the owner of the property from carrying out certain developments that is incompatible with the intended character of the development. For example, a restriction on the type of building that can be erected on the property or on the use of the property.

Only restrictive covenants usually appear on the title. If there is a covenant it is important to get legal advice. Your lawyer should make sure that you fully understand the implications of the covenant. Remember, it is not easy to remove a covenant from the title.

1. There shall be no subdivision of the said land.
2. The Registered Proprietor shall not erected or cause to be erected any building on the said land which shall be of a value including the out-buildings appropriate thereto of less than Three Thousand Pounds.
3. No building or structure or structures shall be set upon the said land nearer than Twenty Five feet to any road fence on which the same may front and not less than Ten feet from any other boundary thereof.
4. All gates and doors in or upon any fence or opening upon any road shall open inwards.
5. No building of any kind shall be erected on the said land other than a private dwelling house with appropriate offices and outbuildings appurtenant thereto and occupied therewith.

Consideration Money Two Thousand Three Hundred and Fifty Pounds.

### **Certified Copies**

Certified copies of all documents available to be searched at the Office of Titles may be requested by the customer. To apply for a certified copy of any title related documents the customer should complete the search request form and indicate that the request is for a certified copy and pay the required fee. The Copies are certified by the Registrar or duly authorized officer and authenticated by the Seal of the Office. These documents are accepted as evidence by any court and are often used by the registered proprietor in posting bail for incarcerated persons.

### **Handling of Original Documents**

When conducting a search persons may be offered a photocopy of the title document requested. This is to prevent loss, damage or misuse of the original documents and reduce the time spent at the Division inspecting documents.

### **Search Request by Post**

We do accept request for searches by post provided that sufficient information is given to properly conduct the search and the required fees accompany the request. Results of the search will be sent by post.

### **Fees**

Specific Search - Fee No. 19

General Search - Fee No. 20

Certified Copies - Fee No. 32 & 33