

Application under section 77 of Registration of Titles Act

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Registrar of Titles

Introduction:

- When contemplating this type of application ensure:-
- Certificate of Title for the land is registrar by Plan.
- Covenants prohibiting this type of application have been modified/discharged.
- Check if the Plan shows any encroachments on land not owned by the applicant.
- Encroachments should be excluded from lots on the plan or acquired by the applicant before applying for the Titles. Unregistered portions appearing on the plans should be treated the same way.

Depositing the plan at the Titles Office:

- **The pre-checked diagram, subdivision approval and, surveyor's declaration are submitted with a letter to Registrar requesting that the plan be accepted for deposit and enclosing the registration fees (\$250.00).**
- In order to facilitate the process, the plan should be technically correct.
- This is the responsibility of the commissioned land surveyor
- The plan must conform to the subdivision approval, that is, it should contain the same number of lots sanctioned by the subdivision approval. Where land is in the name of UDC or Ministry of Housing, subdivision approval from the local authority is not required
- The subdivision approval submitted must be the original bearing the signature and the Seal of the local authority or be a certified copy thereof.
- Ensure that the Volume and folio numbers appearing on the approval is the same as that appearing on the diagram so that there is no question that both documents relate to the same parcel of land.
- 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.
- Where the plan contains slight deviations from the subdivision approval, it is advisable that a letter from the local authority sanctioning the deviation be obtained.
- Peruse Resolution for conditions that conflict:- e.g. "There shall be no Subdivision of the said land" and "No subdivision of the said land without the approval of the Parish Council".

And Conditions that are irrelevant:-e.g. where no new roads are being constructed but a condition has been imposed requiring a road Certificate.

Please note that where the Resolution contains restrictions on the issuing of Splinter Titles, a Registrar's caveat will be lodged against the Title to protect the interest of the local authority until a Certificate as directed by the Resolution is submitted to the Registrar releasing the lots.

Please note that if the resolution calls for Certification by the local authority (Parish Council, KSAC) the Certificate must be signed by the secretary of the Parish Council or The Town Clerk in the case of the KSAC. A certificate signed by the Superintendent of Roads and Works is only acceptable where the resolution expressly calls for it.

Making the Application for Splinter Titles:

The application is made by the registered proprietor of the land and is made by the way of a statutory declaration.

- The Declaration inter alia must describe the land the subject of the application.
- State the value of the lots (and we do ask that a reasonable value be stated)
- State the plan examination number, the deposited plan number and or date of deposit
- State the lots for which the Titles are being applied for together with the respective share in any Common area where applicable.
- Where mortgages are on the Title, the application must be expressed to be subject to the same unless discharge of mortgages are being submitted.
- 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.
- The declaration should end :- "and I make this solemn declaration conscientiously believing the same to be true Under and by virtue of the Voluntary Declaration Act"
- The document is then signed by the company by its authorized officers and the seal affixed if applicable. It is also signed by the authorized Officers making the declaration.
- All statutory declarations are witnessed by a Justice of a Peace in Jamaica and a notary Public or Vice Counsel abroad.
- A certificate from an appropriate officer is to be affixed where a Notary in a foreign country has witnessed the document. This because their appointments are not permanent and can be revoked at any time. The Registration of Title Act requires certification that at the time that they executed the document, their commissions were still in force.

Signing Under Power of Attorney:

The attestation clause should read:

e.g: "Signed by XY Co.
by its Attorney CD
Under Power of Attorney #6532
{Deposited in Office of Titles on the}
{_____day of _____2002 }

It is not required that the date of recording at Titles Office be stated, but if it is, please ensure that it is correctly stated.

General:

Keep signed copies of all documents lodged at the Titles Office, i.e BP Plans Road Certificate, signed applications, Titles and survey diagrams.

Easements/Right of Way—these are grants of interests in land and so are required to be the subject of a grant of transfer and cannot be properly imposed by the inclusion in a surrender application.

As mentioned before ensure that covenants on the title have been modified to permit the type of subdivision:-

E.g. Land shall not be subdivided or single family house only to be erected on land.

If the surrender relates to a strata Plan or Town House development etc. ensure covenants in town house developments which of necessity have party walls.

Easements, Covenants:

Some parent titles have ancient rights and reservations which were obviously relevant to the parcel before it was subdivided into lots.

It should be determined whether it is desirable that these encumbrances be carried on the splintered titles if they should be removed so that they do not clutter the splinter title unnecessarily.

Strata Plans:

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.

The stamp of the local authority must appear on each strata sheet.

Sheets 15 1/2 in Length by 10" in width, Margin 1 1/2 on left side and 1/2" on right side, top and bottom.

Surveyors Certificate should be completed and signed.

Unit entitlement must be in whole numbers.

Address for service must be stated on the strata plan.

Strata Corporation - comes into operation once the plan is registered in the Office of Titles.

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