

Publisher's Note

2019 — Release 3

Previous release was 2019-2

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DiCastrì

Registration of Title to Land

Registration of Title to Land is the authoritative treatise on land titles in Canada. This two-volume supplemented work provides detailed analysis of the underlying principles, theory and operation of land titles systems in Canada, the adaptation of the Torrens model in the western provinces, and makes a comparative study of the principles of the title registrations embodied in the Ontario Land Titles Act and the English statutes upon which it is based.

This release features updates to the case law and commentary in the following chapters: 6 (Land Descriptions and Registered and Deposited Plans of Survey), 8 (The Statutory Transfer), 15 (Lis Pendens), 18 (Statutory Exceptions to Indefeasibility of Title), 19 (Fraud), and 20 (Builders', Construction and Mechanics' Lien Legislation).

Highlights

- **Land Descriptions and Registered and Deposited Plans of Survey — The Condominium Acts — The Condominium Corporation — Oppression Remedy** — Permissible use by-laws intended to balance objectives of owners and tenants by ensuring diversity of products and limiting internal competition among merchants; legal test allows sale of products beyond those expressly permitted if reasonably related to permitted use; tenant expanding beyond scope of permissible use of selling ginseng and must apply for change of use to sell other health products: *Owners, Strata Plan LMS 1590 v. Yip*, 2018 BCSC 2185.

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- **Lis Pendens — Lis Pendens Registered ‘Without Reasonable Cause’** — A master refused to issue a certificate of pending litigation on properties allegedly fraudulently conveyed by plaintiff; master considered both parties’ legal tests and reasonably concluded that defendant failed to satisfy legal burden to establish case; court not compelled to infer fraudulent intent even where badges of fraud exist and here, explained by plaintiff; defendant failed to establish intent to deceive or high probability of success where evidence supported conclusion that defendant had opportunity to make informed investment decision; appeal dismissed: *Hassoun v. Molu*, 2018 ONSC 6781.
- **Statutory Exceptions to Indefeasibility of Title — Easements — Prescription and Abandonment — Prescription** — In an application for declaration of easement by prescription over access road on respondent’s cottage property, there was no direct vehicular access, only trail, before access road created; continuous, uninterrupted, open and peaceful use of access road did not depend on permission; servient owners’ acquiescence to permanent use established by helping to build permanent road; prescriptive easement declared: *Klimack v. Kroeker*, 2018 MBQB 180.