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Registered Land "Deregistration Process" in Massachusetts has been Streamlined

By Matthew D. Mortensen

The Massachusetts Legislature's recently enacted "Affordable Homes Act" (the "Act") provides owners of real property with the right to voluntarily withdraw their real property from the Land Court registration system. Previously, real property could only be withdrawn from the Land Court registration system with the approval of the Land Court if certain narrow and difficult-to-establish statutory requirements were satisfied, and the process could oftentimes take over a year. Under the new Act, an uncontested application for withdrawal could be processed within one month.

Registered Land in Massachusetts

Title to real property in the Commonwealth is documented in the records of either the "recorded land side" or the "registered land side" of the various Registries of Deeds in the Commonwealth. The registered land side is sometimes also referred to as the "Land Court side." Title to the majority of the real property in Massachusetts is documented on the recorded land side, but the Land Court side is frequently used as well.

The Land Court (then known as the Court of Registration) was created in 1898 as a response to the perceived complexity of title in the Commonwealth. The Land Court embraced the "Torrens" system of land registration, in which the government itself certifies an owner's title. Because this system requires a decree from the Land Court, documents filed on the Land Court side have been subject to a rigorous standard of review by a title examiner. These strict requirements can, at times, become time-consuming, expensive, and frustrating. While the Land Court registration system was created to increase certainty as to status of an owner's title, more recently title insurance has become a standard part of real estate transactions in Massachusetts, and this alleviates some of the risks that the Land Court registration system was created to address.

Process for Voluntary Withdrawal

The Act directed the Land Court to establish rules and practices for its application. In furtherance of that requirement, in January of 2025 the Land Court Chief Title Examiner issued a Memorandum, which provides the process for de-registration of real property, summarized below:

1. The owner first files a Complaint for Voluntary Withdrawal of Land from the Registration System (the "Complaint") and a Notice of Voluntary Withdrawal (the "Notice") with the Land Court in Boston.
    1. The Complaint must list all current owner(s) of the real property and identify any interest holders in the real property (such as mortgagees, lessees, or option holders of record) (the "Interest Holders").
    2. The owner may file assents to the de-registration from any Interest Holders with the Complaint.
2. After filing the Complaint and Notice, the owner must serve a Notification of Complaint for Voluntary Withdrawal of Land from the Registration System and a Land Court file-stamped copy of the Complaint and Notice on all Interest Holders who have not assented to the Complaint.
3. The owner then must file with the Land Court an affidavit (on a Land Court-provided form) certifying that notice has been given to all

Interest Holders, together with proof of service. If the owner is represented by counsel, the affidavit must be executed by counsel.

4. Within thirty days of receipt of all required information and documentation (including proof that no objections have been filed), the Land Court will proceed with endorsing the owner's Notice.
    1. If objections are filed, the matter will be treated as contested, and the case will be assigned to a Justice of the Land Court to determine whether good cause exists for such objections.
5. Upon approval and endorsement by a Justice of the Land Court, the owner must file the Notice at the applicable Registry of Deeds.
6. The Registry of Deeds will then notify the Land Court Registered Land Department and Survey Division to verify the filing of the Notice. The land is then withdrawn from the Land Court registration system, the Land Court certificate of title is cancelled, and all further instruments related to the land will be filed on the recorded side of the Registry of Deeds.

Choate's real estate attorneys regularly represent owners, developers, and investors with respect to registered real property. If you would like to discuss the de-registration process, or what to expect for a conveyance of registered real property, please reach out to any of the attorneys in Choate's real estate group.

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