

TRANSFER OF LAND

Transfers of Land are regulated under the *Land Titles Act*. Except for special types of ownership changes, like a transfer to a personal representative of an estate, a transfer of land form is required when you want to change the ownership of a property.

The Transfer of Land Form can be found here:

http://www.servicealberta.ca/pdf/ltmanual/TRANSFER_OF_LAND.pdf

IMPORTANT NOTE: Due to the complex nature and legal requirements of a land transfer, Land Titles staff cannot assist you with the completion of the forms. This guide only outlines the most basic situations. If you are unsure of how to correctly complete the forms, please seek the assistance of a legal professional.

What information you need

- The full name(s) of all the current owners of the property (called the transferor(s))
- The full name(s) of all the new owners of the property (called the transferee(s))
- The full address of all the new owners of the property (called the transferee(s))
- The full *legal land description of the property (not the civic address)
- The amount of money paid for the transfer, if any (called the consideration)
- The current value of the land (including all buildings and structures on it)
- The type of tenancy (ownership) the new owners will have (joint, tenants in common or a defined interest)
- The name and address of the person(s) who will witness the transferor(s) signature(s).
- If dower requirements apply; If there is only 1 current owner on the property, you will need one of:
 - Consent and Acknowledgement by Spouse, or
 - Dower Affidavit, or
 - Release of Dower Rights and Affidavit in Support of Dower Release, or
 - Court Order Dispensing with Dower, or
 - Statement in the Affidavit re Value of Land that the transfer is from the married person to the married person and their spouse (only when adding the spouse to the title)
- If a Foreign Ownership of Land declaration is required (when the property is NOT located in a city, town or village)
- A commissioner for Oaths

The different types of ownership (tenancy)

- Sole Ownership: either a person or a registered company - who is the sole owner of the land
- Tenants in Common: in this type of ownership there are two or more owners called tenants in common. When a tenant in common dies, that person's share in the land goes to his or her estate not the other co-owner(s). The will must be probated.
- Joint Tenants: this type of ownership also involves two or more owners, but each owner has the right of survivorship, when one owner dies, that person's interest automatically passes to the other owner(s).

Note: if you wish to become a joint tenant you must specify this on the transfer document, after the name and address of the transferees (purchasers) otherwise you will become a Tenant in common by default.

What is consideration

Consideration is the amount that you paid for the property. A few examples are:

- Nil (if the property is given to you as gift)
- Estate (if the property is left you in a will)
- Cash & Mortgage (if you made a down payment in cash and financed the rest)
- \$100,000 & Mortgage (if you paid \$100,000 cash and financed the rest)
- \$400,000.00 (if you paid \$400,000 cash or cash and mortgage for the property)

What is Value

The 'value' means the dollar amount that the land might be expected to realize if it were sold on the open market by a willing seller to a willing buyer.

- The "land" includes buildings and all other improvements affixed to the land.
- If you have an Affidavit Re Value of Land that was previously completed, the information cannot be more than 2 years old.

Other information

- If the transfer of land is being completed by a personal representative of an estate, such as an Executor or Administrator, it will also require a completed Affidavit of Minors for Estates form.

Commissioners & Notary Public

Many Land Titles documents and forms require that they be commissioned or notarized. to have your documents or forms commissioned here is some important information you should keep in mind.

Commissioners for oaths by virtue of office or status

Under the Notaries and Commissioners Act the following persons are commissioners for oaths, empowered by virtue of their office or status to administer oaths and take and receive affidavits, affirmations and declarations in Alberta for use in Alberta:

For oaths sworn in Alberta

- a judge
- a lawyer and a student-at-law
- a political representative:
 - a member of the Legislative Assembly of Alberta
 - a member from Alberta of the House of Commons of Canada
 - a member of the Senate of Canada who at the time of appointment as a senator is a resident of Alberta
- a Metis settlement councillor and a municipal councillor
- a member of a board of trustees of a school district or division as defined in the School Act
- a person who holds a commission as an officer in the Canadian Forces and who is on full-time service, whether in Canada or outside Canada
- a police officer
- a notary public is also a commissioner for oaths

For oaths sworn outside Alberta for use in Alberta

- a political representative
- a person who holds a commission as an officer in the Canadian Forces and who is on full-time service, whether in Canada or outside Canada
- a commissioner for oaths by virtue of an office or status referred to above who actually resides in, or who provides his or her services as a commissioner for oaths in, the part of the City of Lloydminster that is located in Saskatchewan

Other Commissioners for Oaths

- Most Authorized Registry Agent Offices have a commissioner for Oaths available
- Many banks or other organizations may have a commissioner available

**Legal Descriptions*

Ways to find your legal description;

- from a previous copy of title
- most tax assessment notices have it
- some taxation municipalities may be able to provide it
- using the Land Titles SPIN 2 system search

Some legal descriptions are complicated and reference only portions of land. In these cases, you must be able to provide the full legal description. It is the registrant's responsibility to ensure they have the full and accurate legal description.

I,

being registered owner of an estate in fee simple (leasehold, life estate), subject to registered encumbrances, liens and interests, if any, in all that land described as follows:

do hereby, in consideration of (the sum of) (\$ _____) Dollars

transfer to:

all my (our) estate and interest in that piece of land.

IN WITNESS WHEREOF I (we) have hereunto subscribed (affixed) my (our, its) name(s) (and corporate seal by its proper officers).

this _____ .

SIGNED by the above named

in the presence of

(Transferor sign here)

(Transferor sign here)

(Witness sign here)

Consent of Spouse

FORM A
Dower Act
Sections 4 and 6

I, _____ being married to the above named
_____ do hereby give my consent to the
disposition of our homestead, made in the instrument, and I have executed this document for the purpose of giving
up my life estate and other dower rights in the property given to me by the *DOWER ACT*, to the extent necessary
to give effect to the disposition.

(Signature of Spouse)

Certificate of Acknowledgement By Spouse

FORM C
Dower Act
Sections 5, 6 and 9

1. This document was acknowledged before me by _____
apart from her husband (or his wife).
2. _____ acknowledged to me that she (or he):
- (a) is aware of the nature of the disposition,
 - (b) is aware that the *DOWER ACT* gives her (or him) a life estate in the homestead and the right to prevent disposition of the homestead by withholding consent,
 - (c) consents to the disposition for the purpose of giving up the life estate and other dower rights in the homestead given to her (or him) by the *DOWER ACT* to the extent necessary to give effect to the said disposition,
 - (d) is executing the document freely and voluntarily without any compulsion on the part of her husband (or his wife).

DATED at _____
in the _____
this _____ day of _____ , _____

(Title of officiating officer)
(A person authorized to take proof of execution of instruments under the Land Titles Act)

(Print name of Officiating Officer)

(Expiry date of Commission or Office)

Dower Affidavit

FORM B
Dower Act
Section 4

I, _____
of _____ in the _____
make oath and say:

1. I am the transferor (or the agent under power of attorney in my favour registered in the Land Titles Office
on _____ as instrument number _____
granted by the transferor(s) named in the within instrument.

2. I am (or My principal is) not married.

- OR -

Neither myself nor my spouse (or my principal nor my principal's spouse) have resided on the within
mentioned land at any time since our (or their) marriage.

- OR -

I am (or My principal is) married to _____
being the person who executed the release of dower rights registered in the Land Titles Office on
_____ as instrument number _____ .

- OR -

A judgement for damages was obtained against me by the spouse (or my principal by my principal's
spouse) and registered in the Land Titles Office on _____ as
Instrument number _____ .

SWORN before me at _____
in the _____
this ____ day of _____ , _____

(Signature)

(Print or Stamp Name of Commissioner)

(Expiry Date of Commission or Office)

Affidavit of Attestation of an Instrument

Form 31
Land Titles Act
Sections 155 and 156

I, _____
of _____ in the _____

make oath and say:

1. I was personally present and did see

who is (are) known to me to be the person(s) named in the within instrument, duly sign the instrument;

OR

I was personally present and did see

who, on the basis of the identification provided to me, I believe to be the person(s) named in the within instrument, duly sign the instrument;

2. The instrument was signed at _____, in the _____
and I am subscribing witness thereto;

3. I believe the person(s) whose signature I witnessed is (are) at least eighteen (18) years of age.

SWORN before me at _____

in the _____

this ____ day of _____, _____

(Witness Sign Here)

(Print or Stamp Name of Commissioner)

(Expiry Date of Commission or Office)

Affidavit Re Value Of Land

Form 32
Land Titles Act
Section 164

I, _____

of _____ in the _____

make oath and say:

1. I am (one of) the transferee(s) (or agent of the transferee(s) named in the within transfer and I know the land therein described;
2. I know the circumstances of the said transfer, and the true consideration paid by me (us) is as follows

3. The current value * of the land **, in my opinion is

* "value" means the dollar amount that the land might be expected to realize if it were sold on the open market by a willing seller to a willing buyer.

** "land" includes buildings and all other improvements affixed to the land.

SWORN before me at _____

in the _____

this ____ day of _____ , _____

(Signature of Transferee or Agent or Solicitor)

(Print or Stamp Name of Commissioner)

(Expiry Date of Commission or Office)

Affidavit of Minors for Estates

Schedule A
Land Titles Act
Sections 120(1)(d)

I, _____,
of _____, in the _____,

make oath and say:

1. THAT I am the Administrator (or Executor) for the Estate of _____
late of _____ in the _____,

Deceased and as such have a personal knowledge of the facts hereinafter deposed to.

2. THAT there are no minors interested in the said Estate nor were there any minors interested in the Estate at the time of
the death of the said deceased.

SWORN before me at _____

in the _____

this ____ day of _____, _____

(Signature)

(Print or Stamp Name of Commissioner)

(Expiry Date of Commission or Office)