

## BACKGROUND

Adjudication means an enforcement return for unpaid irrigation rates confirmed by the Court of Queen's Bench under Part 6 of the Act. (1) All amounts on the collector's roll as established by the district are deemed to be unpaid irrigation rates within the meaning of section 61(1)(b) of the Land Titles Act (2) and, by virtue of section 61, the certificate of title is by implication and without any special mention therein subject to these rates.

The registration of an adjudication operates to:

- a) vest in the irrigation district the title to an estate in fee simple in the parcel affected by the adjudication, or
- b) if the parcels are held by a purchaser under an agreement for sale with the district, to cancel the agreement for sale. (3)

## REGISTRATION PROCEDURE

1. A copy of the adjudication, certified by the manager of the irrigation district, must be forwarded by registered mail to the Registrar of Land Titles not later than December 31 of the year in which the adjudication is made. (4)
2. On registration of the adjudication, a certificate of title in fee simple is issued in the name of the district, free of all other estates and interests and from all liens, mortgages, charges and encumbrances of every nature and kind other than
  - a) those arising from claims of the Crown in the right of Canada, including writs of enforcement,
  - b) a first mortgage, not necessarily the first mortgage appearing on title, registered prior to the formation of the district or the addition of the land to the district, (5)
  - c) taxes charged on the land,
  - d) any condition or covenant registered under section 48 of the Land Titles Act (i.e., restrictive covenant),
  - e) any easement or incorporeal right, a memorandum of which has been made under section 67 of the Land Titles Act,
  - f) any instrument registered under section 69 of the Land Titles Act (i.e., utility right of way),
  - g) any caveat protecting any of the instruments in items (d), (e) and (f), (6)
  - h) a right of entry order (as defined in the Surface Rights Act, S.A. 2000, c. 24) registered under the Land Titles Act, and
  - i) any resolution of the Board or an order of a predecessor of a Board designating the parcel or land or part of it as an irrigable unit. (7)

3. **Parcel or Land Held by a Purchaser from the District** - The following are cancelled on the registration of an adjudication when the parcel or land is held by a purchaser from the district:

- a) any caveat pertaining to the interest of the original purchaser from the district or of any person claiming an interest in the parcel or land through or under the purchaser, and
- b) any other memorandum on the district's certificate of title that was registered as a result of any act done or any instrument executed by the original purchaser or any person claiming through or under him. (8)

4. **Exceptions to Adjudication** - The board may by resolution give a direction in writing excluding any parcel from an adjudication until otherwise directed. Upon receipt of a copy of the resolution, if the adjudication has not been registered, registration proceeds as follows:

- a) the exception document, together with a certified copy of the adjudication, is registered, and
- b) notwithstanding the effect of the registration of the adjudication as outlined above, the adjudication is not registered against the parcel or land to which the direction applies until the board so directs. (9) It is endorsed as (INST) on ALTA with the particulars (PF16)

"SUBJECT TO EXCLUSION FROM ADJUDICATION BY  
\_\_\_\_\_ IRRIGATION DISTRICT".

Upon receipt of a notice evidencing the cancellation of the exclusion, it is registered and a certificate of title in the name of the district is issued in accordance with item above. (10)

5. The time periods within which a sale must occur (11) and the sale procedures are outlined in the Act. (12) The irrigation council may extend the time for anything to be done under the act. (13)

6. Part of a parcel may be sold. The remaining part of the parcel or land, which was not included in the sale, must be transferred back to the person who was the registered owner of the parcel or land before the registration of the adjudication. The sale is subject to subdivision approval. All uncanceled memoranda endorsed on the title to the parcel or land at the time of the registration of the adjudication are endorsed on the new certificate of title for the re-transferred land. (14)

7. **Redemption of Land Before Auction** - When written notice from the manager of the irrigation district evidencing payment of all amounts owing is registered, the certificate of title issued in the name of the district is cancelled. (15) A new certificate of title is issued in the name of the registered owner prior to the adjudication. It is subject to all uncanceled memoranda from the certificates of title of the registered owner prior to the adjudication and of the district, other than those pertaining to the registration of the adjudication. (16) The registration number of the notice is the number for the new certificate of title. The consideration is shown as "NIL".

Redemption may occur at any time prior to public auction. (17)

An agreement for sale, cancelled on the registration of an adjudication, may be revived by registration of written notice from the manager of the irrigation district. The instruments cancelled at the time of the registration of the adjudication (see item 3) are then revived. (18)

## **STATUTE AND CASE REFERENCES**

Statute references are to the Irrigation Districts Act, R.S.A. 2000, c. I-11, unless otherwise indicated.

1. s. 114(a)
2. s. 129(2)
3. s. 142(2)
4. s. 142(1)
5. A "first mortgage" is defined in s. 1(n) to mean "a mortgage or an encumbrance in the form prescribed under the Land Titles Act on land forming part of a district and which has been registered in the proper land titles office prior to the formation of the district or the addition of the land to the district and that has priority over all other similar mortgages or encumbrances against the same land."
6. s. 142(5)
7. s. 142(4)(h)
8. s. 142(5)
9. s. 143(5), (6), (7)
10. s. 143(7), (8)
11. s. 147
12. s. 148
13. s. 185
14. s. 149(3)
15. s. 150(2)(a)
16. s. 150(2)(b), (3)(c)
17. s 150(1)
18. s. 150(3)(c)