

## BACKGROUND

Where there is an omission, clerical error or other defect in a registered plan, the Registrar may correct the plan pursuant to section 92 of the *Land Titles Act* if he is satisfied that the correction will not adversely affect any person or if all persons who may be adversely affected have consented to the correction. The Alberta Land Surveyor who signed the plan or, if the Alberta Land Surveyor is not available, the Director of Surveys must consent to the correction. (1) If the consent of a person who may be adversely affected cannot be obtained, an application may be made to the court under section 91 of the *Land Titles Act* for correction of the plan.

It is important to note that reference in section 92 to “an omission, clerical error or other defect in a registered plan” is restricted to defects other than an actual survey error. The terms “omission” and “clerical error” do not encompass a survey error and accordingly, “other defect” must be restricted in its meaning under the *eiusdem generis* rule (2). The Registrar cannot use this section to approve corrections to plans which have the effect of moving monuments or altering property boundaries. This would include making corrections to the Table of Coordinates on delayed posting plans, where the correction would have the effect of altering a property boundary. A Judges Order pursuant to section 91 or an Order issued pursuant to section 9 of the *Surveys Act*, R.S.A. 2000, c. S-26 is required in all cases where survey monuments are to be moved or property boundaries are being altered as a result of the correction to the plan.

There may be situations where other methods can be used to correct title boundary problems in place of registering an actual correction to a plan through the use of one of the types of orders described above. Documents such as transfers of land, road closing bylaws and plan cancellation bylaws all registered in conjunction with new plans of survey may be acceptable to correct the title boundary problems. Using this method to correct title boundary problems would also require various approvals, such as subdivision approval, if the boundary issue were being resolved by way of a new subdivision. It is important to note that there is a difference between correcting a title boundary problem through the registration of new documents and plans vs. the registration of an order which directs that survey monuments, and thus title boundaries, be moved.

As it is impossible to cover all situations, the registrant is advised to contact the Land Titles Offices regarding the acceptability of any of the above alternatives for each situation, and to determine what consents and other documentation would be required to effect the corrections.

## REGISTRATION PROCEDURE

1. In order for the Registrar to correct an omission, clerical error or other defect in a registered plan pursuant to section 92 of the *Land Titles Act* the following will be required:
  - a) A Document Registration Request Form (D.R.R.).
  - b) A letter from the Alberta Land Surveyor containing the following information: (3)
    - i) A detailed explanation of the nature of the error or defect and the corrections to be made. The corrections can either be in a list form or marked on a copy of the plan trimmed off to sheets no larger than 11 ½ x 14 inches;
    - ii) A statement that no improvements have been made (e.g. fence, driveway, garage, setback requirements, utilities) relying on the incorrect information on the plan and that the correction will not create any encroachments or have any other adverse affects;
    - iii) Advise whether the corrections affect any other registered plans;
    - iv) A statement that no monuments have been moved or removed;
    - v) A statement that no property boundaries are being altered or moved; and
    - vi) Consent from the owner(s). Note that this consent is usually required where areas or distances are to be amended.
2. The fee in [Tariff item 8\(2\)](#) is charged on all plan corrections. The fee listed in [Tariff item 12](#) is charged for correcting each title after the first.

## STATUTE AND CASE REFERENCES

1. s. 92, Land Titles Act, R.S.A. 2000, c. L-4
2. According to Blacks Law Dictionary, under “ejusdem generis” canon of statutory construction, where general words follow the enumeration of particular classes of things, the general words will be construed as applying only to things of the same general class as those enumerated. In section 92, the terms “omission” and “clerical error” do not encompass a survey error and therefore, “other defect” cannot be interpreted in its meaning to include altering property boundaries.
3. s. 79(1)(a), Land Titles Act