

## Teraview 2.0 Issues Raised by Practitioners (Updated: March 22, 2019)

The Working Group on Lawyers and Real Estate (“WG”) has been provided with these inquiries by lawyers across the Province. We will maintain a list of these and put them forward to the Director of Titles, the government and Teranet when we have an opportunity. We will post updates as we have further information.

1. **Signing Transfer for Completeness** without purchaser lawyer input - the vendor lawyer should be able to complete the transfer without the purchaser lawyer inserting any info (i.e. tax status).

**WG Comments:** The system is designed to be signed for completeness once all required statements have been made, and to erase signatures when changes have been made (so the other lawyer is aware that changes have been made following their signing). This request has been forwarded to the Ministry, but we don’t expect that the system design will be changed any time soon.

2. Request separate listing or tab for Land Titles **Bulletins**
  - a. active ones with an archive section for discontinued or updated ones;
  - b. resource tab should contain a central repository of all published LRO bulletins, indexed by topic and by number.

**WG Comments:** This request has been forwarded and we await a response.

3. Ability to subscribe to notice when a new **Bulletin** is issued;

**WG Comments:** This request has been forwarded and we await a response.

4. Register of **Standard Charge Terms** (SCT) or a quick way to access them.

**WG Comments:** The Ministry introduced a central reference portal via the OnLand application back in December 2018 (currently for SCTs dated 2007 to the present). This can be access here - <https://www.onland.ca/ui/lro/documents/sct>

5. Incorporating **Residency declaration** into Teraview.

**WG Comments:** This request has been forwarded and we await a response.

6. Problems dealing with the **LRO remote services**, or lack of availability of on-site LRO personnel to deal with easements which were improperly expunged or not carried forward by Teraview when the parcels were put into the LTCQ system.

**WG Comment:** We note that the Ministry has created a revised process to submit easement inquiries (and in fact all questions) to the LRO as access to local resources are becoming less available or non-existent (see Onland.ca/Support/Contact Us). The process is to submit a request on the Onland.ca website for which the applicant will now receive a ticket number to track the matter. The hope is that this revised system will

provide greater efficiency and better statistics to measure service. Please advise the WG if you have any issues with the new revised process.

7. **Powers of Attorney (PoA)** that are joint and several - a Transfer can be executed by just one donee if more than one attorney is appointed jointly and severally, but the Application to register the PoA must be signed by all donees, which is expressly contrary to the donor's intentions and the expectations of the donor and attorney. This could result in significant consequences if, say, one of the attorneys was out of the country around the time of closing because s/he relied upon the joint and several appointment and knew the other attorney(s) could handle the transaction. The defaulting party relied on a legally valid document but was unable to complete the transaction because of the additional requirements of the Ministry.

**WG Comment:** We understand that the Ministry wants all parties identified on the document being registered, (i.e. the donee and all attorneys) however, the system does not monitor who is required to sign or the signature of all parties named. It is the lawyer's responsibility to determine who the required signatory is and have that or those signatures on the required documents. Any alternative attorneys should be named for searching purposes but have no impact on who is required to sign.

8. Why can't the system take **multiple roll numbers** for a property where there are several?

**WG Comment:** We understand that the roll number is not a required field for the Ministry's purposes and as such it is unlikely to be modified so as to permit multiple numbers. It has been suggested that MPAC update their database to merge or combine roll numbers but this is likely not seen as a priority. There is a suggestion that one could add a Section 61 statement to include any other roll numbers.

9. **Advance notice** of significant changes (ie. fee increases and the change to the PIN Correction/pre-approval system) would be greatly appreciated.

**WG Comment:** This request has been sent to the Ministry and we hope to have more timely notice in the future.

10. Concerns have been raised about the lack of access to **Land Registration staff** (and *Registry Act* registrations) in certain areas of the province.

**WG Comment:** This is the new reality, especially with the growing number of local registration staff retiring. That is why the Ministry has created a revised process to submit all inquiries to the LRO as access to local resources are becoming less available or non-existent. The process is to submit a request on the Onland.ca website for which the applicant will now receive a ticket number to track the matter (Onland.ca/Support/Contact Us). The hope is that this revised system will provide greater efficiency and better statistics to measure service. Please advise the WG if you have any issues with the new revised process.

11. With the new Teraview, **passwords** can now be saved so they don't need to be entered – this is a potential security issue.

**WG Comment:** The saving of passwords is not in Teraview but rather in the browser being used by the user. One should not click to permit your browser to retain the password, but if you did, consult your IT help desk to undo this or go to the Settings of your browser to undo the save. (i.e. in Chrome, go to settings, autofill, passwords and you can remove any saved passwords). This is a security issue in that one of the two factors of authentication has been automated but the second factor, signing-in with the FOB remains and maintains the security. It would be considered best practice to keep both factors of authentication as a manual process.

12. **Survivorship Applications** - When a property has multiple owners and the capacity is different i.e. John Doe JTEN UND 50%, Jane Doe JTEN UND 50% and Jim Brown TCOM UND 50%, you need the LRO to provide an Override in order to register a survivorship application for the surviving joint tenant; and,

When a property has multiple owners with one owner being a corporation and no capacity is provided for corporate owner and other owners may be JTEN as to an undivided interest, you need the LRO to provide an Override in order to register a survivorship application for the surviving joint tenant.

**WG Comment:** LRO has confirmed that the system cannot recognize the different capacities. This is a known issue and the only way to proceed at this time is to request an override ([Onland.ca/Support/Contact Us](http://Onland.ca/Support/Contact Us)). **Caution:** Bulletin 2018-04 states: "Processing times will vary depending on the complexity of your request. Ministry staff will contact you within 10 business days of your submission and will fulfill all requests in order of receipt." Applicants should apply at their earliest opportunity to prevent any delay to their transaction.

13. When signing for **multiple documents** in Teraview with different PINs, but same LRO, the second document will not sign and you get an error message. You must refresh or log off all together.

**WG Comment:** As we understand the system presently configure to permit the signing of multiple documents in the same docket but if the documents are in different docket, the user must sign in again. If you are experiencing any other problems, please let us know.

14. **No Notice Notices** - We've had several discussions recently with lawyers about registering notices of liens under townhouse Co-Tenancy agreements. One firm who acts for many Co-Tenancies has been instructed by the LRO staff to not include any details – to essentially register a No-Notice Notice. They used to include details and reference the registered Co-Tenancy agreement, but have been told by the LRO staff not to do that.

**WG Comment:** Although this might be a working solution for now, many of us have heard the Director of Titles speak at various programs and indicate his desire to remove the No Notice Notices option entirely. This does raise the issue of concern in what lawyers who are searching title are doing with these types of notices, as they may

incorporate important obligations on the part of the owner of the parcel and should be examined to determine their impact.

15. **Pre-approvals** are to be submitted via the Onland portal (Onland.ca/Support/Contact Us).

**WG Comment:** The Ministry has created a revised process to submit all inquiries, including pre-approvals to the LRO as access to local resources are becoming less available or non-existent. The process is to submit a request on the Onland.ca website for which the applicant will now receive a ticket number to track the matter (Onland.ca/Support/Contact Us). The hope is that this revised system will provide greater efficiency and better statistics to measure service. Please advise the WG if you have any issues with the new revised process.

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16. Teranet posted a notice on its site that land transfer taxes and registration fees will be **withdrawn from lawyer accounts** on the same day as registration. Teranet has not been able to confirm what time funds will be withdrawn from lawyer accounts (e.g. does it happen at a particular time or times? How long after the registration are funds debited?). In practice, same day funds withdrawal causes issues for lawyers at both big and small firms who have registration fees and taxes come out of a general account, as there are practical limits on how quickly we can transfer funds from trust to general. Under the Rules of Professional Conduct, lawyers cannot transfer funds from trust until a transaction is complete. So, as Teranet moves closer to simultaneous fee withdrawal, lawyers may have to choose between NSF in their bank accounts and the Rules (I know we can also have registration fees come out of trust but apparently that is very cumbersome).

**WG Comment:** The WG has suggested that the Teranet withdrawal be for all registrations as to a specific time in order to permit time for lawyers to transfer funds to cover the fees and taxes (i.e. the fees and taxes for all registrations up to 2pm will be withdrawn at 3pm).

Teranet has advised that their notice (No. 18-07 – Same-Day Fee and Land Transfer Tax withdrawal, September 24, 2018) only dealt with the withdrawal moving from the next business day to the same day a registration occurs. Teranet advises that the withdrawal request on any day is first sent at the end of the day, likely around 6:30 pm and that request is executed by the bank with its next batch that evening.

17. *Planning Act* searches require the ability to refer to **Consents** stamped or attached to Transfers. Do all Consents remain on title and for how long?

**WG Comment:** We understand there is a notation on the abstract of the three-box-signatures which provides a backstop for all *Planning Act* searches. There are some notations on the abstract of consent which were registered in a Transfer. We have requested clarification of these practices, if they were universal and as of which date

they became universally applied across the province. We will update this comment when we receive any further information. Note of caution, however – if the same lawyer signed the *Planning Act* statements for the Transferor and Transferee, the system will include the notation, even though the curative provisions of the statements will not apply. It is recommended that lawyers pull the relevant Transfers to confirm that the statements were properly made.

Note a useful resource: The Director of Title is now posting information (see <http://www.teraview.ca/en/category/a-lot-from-the-dot/>) on frequently asked questions or issues which are brought to his attention or new developments. For example:

- Practice Management Tips from the Land Registry Office
- MGCS Bulletin 2018-04 OnLand Application Release
- How to Check the Certification Status of Instruments in Teraview

You are encouraged to visit this link for future tips and insights which may answer your questions, or contact us and we will look at pursuing the query.