Subject: **REGISTRAR'S CAVEAT**

BACKGROUND

The Land Titles Act makes provision in section 151 for the registration of a caveat by the Registrar

a) on behalf of the Crown, or

b) on behalf of any person who may be under any disability, to prohibit the transfer or dealing with any land belonging or supposed to belong to the Crown or that person, and also

c) to prohibit the dealing with any land in any case in which it appears to the Registrar that an error has been made in any certificate of title or other instrument, or for the prevention of any fraud or improper dealing.

The Registrar's caveat acts as a warning to anyone searching the title that dealing with the land may be prohibited or may be subject to the claim set forth in the caveat.

> Laycraft, J.A. in *Krautt v. Paine* (1) interpreted the section as follows:
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> "It is urged that s. 155 [now s. 148] empowers the registrar to file a caveat only where the land is claimed by the Crown or where land belonging to a person under disability is affected; other persons must, it is said, look after themselves. In my view, that is not the proper interpretation of the section. The words which follow "and also" in the section are enabling words to permit the registrar to file his caveat in any case where an error has been made or for the prevention of fraud or improper dealings. That those words are themselves a separate provision independent of the opening words of the section is, in my view, shown by the repetition of the words "to prohibit the dealing" in the second part of the section.
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> This interpretation is in accord with the decision of Kirby, J. in *Don-Del Invts. Ltd. v. Registrar of North Alta. Land Registration Dist."*

He held that a Registrar's caveat does not have to prohibit dealings entirely but may have the same effect as any other caveat registered in the Land Titles system which is that "the land may be dealt with in the usual manner but rights acquired in the dealing will be subject to the right claimed by the caveat." (2) It is not the intent of the section that a Registrar's caveat is to continue indefinitely. Rather, the caveat is for the purpose of preserving the status quo pending proceedings pursuant to the Land Titles Act. (3)

The test of sufficiency of a Registrar's caveat is the same as any other caveat, and as indicated in section 131 of the Land Titles Act, it must state the nature of the interest claimed. In *Krautt v. Paine*, the use of the word "forbid" in the caveat was held to be in sufficient compliance with the terms of the section which uses the word "prohibit". (4)

REGISTRATION PROCEDURE

A. Registration of a Registrar's Caveat

1. A Registrar's caveat form has been developed (FORM A) which provides for an outline of a brief history of the matter and the reason for the filing of the caveat and is to be executed by the Registrar, Team Lead, or authorized Senior Mines and Minerals Analyst. An affidavit in support of caveat is not required. (5)

The code used for registration at Land Titles is: REGC

2. Notice of the registration of the Registrar's caveat, in the form of a photocopy of the front page of the caveat with the notice label endorsed on it, is sent to the registered owner. (6)

3. **Discharge of Registrar's Caveat** - The usual discharge form is to be executed by the Registrar or Assistant Deputy Registrar. Alternatively, the owner may apply to the court for an order directing that the caveat be withdrawn or discharged (7) in which case a certified copy of the order is required.

The code used for registration at Land Titles is: DISO

B. Titles Subject to a Registrar's Caveat

When a Registrar's caveat is endorsed against a certificate of title, any document submitted for registration is to be referred to a supervisor for a determination of whether the registration process may proceed as the caveat may either prohibit dealings completely or prohibit dealings except subject to the caveat.

STATUTE AND CASE REFERENCES

Statute references are to the Land Titles Act, R.S.A. 2000, c. L-4 unless otherwise indicated.

1. *Krautt v. Paine*, [1980] 6 W.W.R. 717 (Alta. C.A.), at p. 732
2. *Supra*, footnote 1, at p. 7353.
3. *Don-Del Investments Ltd. v. Registrar of North Alberta Land Registration District et al.* (1981), 15 Alta. L.R. (2d) 51 (S.C.T.D.)
4. *Supra*, footnote 1, at p. 735
5. s. 131(2)
6. s. 134(1)(b)
7. s. 146