

BACKGROUND

The Historical Resources Act ("Act") provides a means for the province or a municipality to declare a parcel of land a historic resource, or a historic site or a provincial historic area. The Act provides for the registration of either a Ministerial Order or an Order-in-Council in the case of the province or a by-law in the case of a municipality against the certificate of title affected. Thereafter, the registered owner may only use and deal with the parcel in accordance with the provisions of the Act.

REGISTRATION PROCEDURE

A. REGISTERED OR PROVINCIAL HISTORIC RESOURCE

1. The Minister charged with the administration of the Act may designate any historic resource and associated lands as a Registered Historic Resource or a Provincial Historic Resource. (1) A certified copy of the Ministerial Order is registered and a memorandum with the following particulars is endorsed against the relevant certificate(s) of title:

"ORDER UNDER THE HISTORICAL RESOURCES ACT"

2. **Discharge** - The order is discharged upon the registration of a certified copy of a Ministerial Order rescinding the original order. (2)

B. PROVINCIAL HISTORIC AREA

1. The Lieutenant Governor in Council may by regulation establish a Provincial Historic Area. (3) A notice of the regulation accompanied by a certified copy of the regulation is registered and a memorandum with the following particulars is endorsed against each certificate of title affected: (4)

"NOTICE OF REGULATION UNDER THE HISTORICAL
RESOURCES ACT"

2. a) **Amending Regulation** - If the original regulation is amended, a further notice together with a certified copy of the amending regulation is registered. No endorsement of the amending notice is made against the affected certificate(s) of title except in respect of land that is being added to or removed from the area. (4)

b) **Addition of Land to the Area** - If additional land is added to the area, the certificate of title for the additional land is endorsed under the registration number of the amending notice in the following manner:

"NOTICE OF AMENDING REGULATION RE HISTORICAL RESOURCES ACT NOTICE 841345678"

c) **Removal of Land from the Area** - If the amendment of the original regulation has the effect of removing land from the area, the original endorsement is discharged under the registration number of the amending notice. If the land removed is not all of the land described in the certificate of title, the original notice should be checked to determine if a partial discharge is appropriate.

3. **Storage of Amending Notices** - The Act requires that a notice of an amending regulation be stored with the original regulation and the two are treated as one document.

The notice of amending regulation is endorsed with the following statement:

"AMENDS HISTORICAL RESOURCES ACT NOTICE 841345678
ORIGINAL NOTICE OF AMENDING REGULATION IS STORED
WITH ORIGINAL NOTICE OF REGULATION"

A note must accompany the notice of amending regulation when it is sent for microfilming requesting that it be returned to the examiner so that the following storage procedure can be followed. A photocopy of the notice of amending regulation is made and sent in the normal course to the Records Centre. The original notice of amending regulation is attached to the original notice of regulation either in the Document Filing Section or by recalling the original notice from the Records Centre. The original notice of regulation is endorsed with the following statement:

"NOTICE OF AMENDING REGULATION REGISTERED AS
861345678".

If the original notice of regulation is a microfilmed document, the page on which the statement is endorsed is re-microfilmed.

4. **Rescission of Regulation** - If a regulation is rescinded but not replaced, a notice with a copy of the rescinding regulation attached, is registered and the original memorandum is discharged under the registration number of the rescinding notice.

5. **Rescission and Replacement of a Regulation** - If a regulation is rescinded and replaced by another regulation, a notice to that effect with a certified copy of the new regulation is registered.

- a) **Land that was subject to the rescinded regulation and is subject to the new regulation** - The memorandum in respect of the rescinded notice is discharged using the registration number of the new notice and a memorandum of the new notice with the particulars shown in item B.1 above is endorsed against the relevant certificate(s) of title.
- b) **Land that was subject to the rescinded regulation but is not subject to the new regulation** - The memorandum of the original notice is discharged using the registration number of the new notice.
- c) **Land that was not subject to the rescinded regulation but is subject to the new regulation** - The notice is treated as an original notice and a memorandum with the particulars shown in item B.1 above, is entered against the certificate(s) of title.
6. **Notice to Registered Owners** - For registrations outlined in items B.1, B.2 (a), (b) and (c), B.4 and B.5 above, a photocopy of the notice, but not the regulation, is sent to each registered owner. To minimize the number of subsequent telephone enquiries, a short notation of the legal description affected and a short statement of whether the land has been added to or deleted from the area are endorsed on the copy of the notice.

C. **MUNICIPAL HISTORIC RESOURCE**

1. A municipal council may by by-law designate any historic resource and associated land as a Municipal Historic Resource. (5) A certified copy of the by-law is registered and a memorandum with the following particulars is endorsed against the appropriate certificate(s) of title:

"BY-LAW UNDER THE HISTORICAL RESOURCES ACT"

2. **Discharge** - If the council repeals the by-law, a certified copy of the repealing by-law is registered and the memorandum evidencing the registration of the original by-law is discharged under the registration number of the repealing by-law.

D. **CONDITION OR COVENANT ON THE LAND**

1. A condition or covenant relating to the preservation or restoration of any land or building may be entered into between the owner of land and one of the persons or organization outlined in section 29(1) of the Act. It may be registered against the affected land. A sample memorandum is as follows:

"CONDITION/COVENANT UNDER THE HISTORICAL RESOURCES ACT IN FAVOUR OF THE MINISTER OF COMMUNITY DEVELOPMENT".

Such a condition or covenant runs with the land and the person or organization that entered into the condition or covenant with the owner may enforce it whether it is positive or negative in nature and notwithstanding that the person or organization does not have an interest in any land that would be benefited by the covenant.

2. **Assignment** - The condition or covenant may be assigned by the person or organization that entered into it to another person or organization specified in section 29(1). (6)

3. **Discharge** - The Minister charged with the administration of the Act may by order discharge or modify the condition or covenant whether or not the Minister is a party to it. (7) A certified copy of the order discharging or modifying the covenant or condition is registered and the original registration of the condition or covenant is discharged under the registration number of the order or a memorandum with the following particulars is endorsed against the certificate(s) of title:

"ORDER BY MINISTER OF COMMUNITY DEVELOPMENT
MODIFYING CONDITION/COVENANT 861987654".

E. **FEES**

Pursuant to [Tariff item 2](#), all registrations for the Minister are done without fee. [Tariff items 11\(6\) and 13](#) are charged for any registration by municipality.

STATUTE AND CASE REFERENCES

Statute references are to the Historical Resources Act, R.S.A. 2000, c. H-9.

1. s. 19 and 20
2. s. 19(9) and 20(16)
3. s. 24
4. s. 25
5. s. 26
6. s. 29(4)
7. s. 29(5) and (6)