

Subject: **SURVEYS - ROAD CLOSURES**

BACKGROUND

Ownership of all public highways, roads, streets, lanes, alleys and bridges (hereinafter referred to as "roads") in a city with the exception of the City of Lloydminster (1) is vested in the city. (2) Ownership of roads in a municipality other than a city is vested in the Crown in right of Alberta. (3) Roads in a city or other municipality are closed by way of by-law. (4) Roads in a municipal district which are described in a surveyed road plan may be closed by resolution if there is an alternate route and if approved by the Minister of Transportation; this resolution forms the basis for the issuance of a notification by the Minister of Transportation. (5) Ownership of roads in an improvement district or special area is vested in the Provincial Crown and the roads are closed by way of notification. Once a by-law or notification is registered, a certificate of title for the land can be issued.

REGISTRATION PROCEDURE

These documents are referred to the Surveys section for processing.

A. BY-LAWS

1. A copy of the by-law effecting the road closure, certified by an official under seal of the municipality, is required.
2. If the road is in a municipality other than a city, the by-law must be approved by the Minister of Transportation before it may be registered and a certificate of title issued. (6)
3. The portion closed must be adequately described in the by-law. The street name or number from the original plan of subdivision must be included. A sketch may be attached to illustrate a metes and bounds description but cannot be used in lieu of such description.
4. Upon registration of the by-law, a certificate of title is issued to the municipality. A memorandum of the road closure with the following particulars is made on the plan and road index card:

"ROAD CLOSED BY BY-LAW 851123456 AS TO ____ HA"

5. **Consolidation of Titles** - If specific portions of a road which is to be closed are to be consolidated with adjoining parcels, each portion to be consolidated must be described separately in the by-law. Upon registration of the by-law, a certificate of title for each portion is issued and is given the registration number of the by-law. The certificate of title is then cancelled under consolidation and consolidated with the title to

the adjacent land. (7)

6. **Fees** - [Tariff item 8\(2\)](#) is charged for the registration of the by-law, [Tariff item 11\(4\)](#) is charged for the consolidation and [Tariff item 13](#) is charged for each title after the second which is cancelled. [Tariff item 12](#) is charged for each new title issued after the first one. If description approval is required, [Tariff item 9](#) is also charged.

B. NOTIFICATIONS

1. A notification for the abandonment of a road is issued by Alberta Transportation ([FORM A](#)). It must be executed by the Minister or his designate (8) and does not require a witness or provincial seal. (9)

2. A notification must specify the nature of the grant and any mines, minerals, easements or rights that are excepted therefrom. (10) It is the established practice of the Department of Transportation to attach to the notification any document which has granted a prior interest in the parcel, usually a utility right of way ("U.R.W."), which has not been registered at Land Titles. The document is registered prior to the notification. The registration number of a document representing a prior interest which has been registered at Land Titles will generally only be referred to in the Document Registration Request Form. A proper legal description must be provided for a certificate of title to be issued. The title number of the new certificate of title is the registration number of the notification and a memorandum of the U.R.W. or other interest is endorsed against it. A memorandum with the following particulars is endorsed on the plan:

"ROAD ABANDONED BY NOTIFICATION 851012345 IN FULL
(or AS TO _____ HA.)".

3. **Consolidation of Titles** - If the land in the notification is to be consolidated with adjacent land, the notification must indicate which land the land in the roadway is to be consolidated with. A certificate of title is created for the consolidated area. (7)

4. **Untitled Land** - When a road abandonment affects untitled land, the Department of Transportation advises the Registrar of the abandonment by letter. The letter is given a registration number and a memorandum of the abandonment is endorsed on the road plan.

5. **Fees** - [Tariff item 3](#) is charged for the notification and [Tariff item 13](#) is charged for each title after the first which is cancelled. [Tariff item 12](#) is charged for each new title issued after the first one. If description approval is required, [Tariff item 9](#) is charged. Pursuant to [Tariff item 2](#), no fee is charged if the notification is submitted by the Crown in right of Alberta.

C. GENERAL REQUIREMENTS

1. The instrument presented for registration in respect of the road closure must also specify the particulars of any U.R.W. granted under section 69 of the Land Titles Act which

- a) existed in respect of the land immediately before the land became a public road, and
- b) would still exist in respect of that land if the land had not become a public road.

The following is an example of the memorandum endorsed against the certificate of title:

"REVIVAL OF UTILITY RIGHT OF WAY 802345678 TO
CALGARY POWER LTD, PLAN 8020001"

The U.R.W. is revived effective the day it is entered on the certificate of title. (11)

STATUTE AND CASE REFERENCES

Statute references are to the Municipal Government Act, R.S.A. 2000, c. M-26, unless otherwise indicated.

1. Lloydminster Charter Regulation, Alberta Regulation 43/79
2. s. 16(2)
3. s. 16(1)
4. s. 22
5. s. 24
6. s. 22(3)
7. see procedure on Consolidation of Title [CON-1](#)
8. s. 29(5), Land Titles Act, R.S.A. 2000, c. L-4; s. 21, Interpretation Act, R.S.A. 2000, c. I-8
9. s. 159, Land Titles Act
10. s. 29(5), Land Titles Act
11. s. 70, Land Titles Act