



**THE LAW SOCIETY
OF SOUTH AUSTRALIA**

THE VOICE OF THE SOUTH AUSTRALIAN LEGAL PROFESSION

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19 April 2011

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The Honourable Patrick Conlon MP
Minister for Transport
GPO Box 2969
ADELAIDE SA 5001

Dear Minister

Lands Titles Office issues

I am writing to express the Society's concern and alarm at certain changes which have been announced by the Land Services Group to come into operation with effect on 1 July 2011, namely

- an "additional charge" of \$15 on all documents lodged for registration;
- fees for "TATS history" searches; and
- the loss of search confirmation screens.

The Society is aware that some of the above matters may fall within responsibilities of the Attorney-General. Accordingly, a copy of this letter is being sent to the Honourable John Rau MP.

We provide the following comment in relation to these changes.

\$15 levy

In your recent media release, you announced that a contract had been awarded for the building of a major new land titling, valuation and land information system and that the cost of that system would be offset by a \$15 "additional charge" on each "transaction" lodged for registration after 1 July 2011.

The Society welcomes the proposed replacement of the current system which, although cutting-edge when it was first introduced some 30 years ago, has seen few major changes since then and has proved to be difficult and expensive to adapt. However, the Society raises the following concerns:

1. The Society has received clarification from the Registrar-General that the additional fee will apply to *documents* lodged for registration at the LTO, not to *transactions*. This makes a significant difference, since most "transactions" involve multiple documents.

2. SA Lands Titles Office registration fees, with their uncapped *ad valorem* sliding scale on Transfers, are already the highest in the nation. The Society understands that these fees provide the Government with revenue approximately five times greater than the cost of operating the LTO and have therefore been a major contributor to general Government revenue for many years.
3. Those registration fees are due to be subject to a further annual increase with effect on 1 July 2011.
4. No firm date has been announced for commencement of the new system, although the implementation period has been estimated at about three years. During that time, it is likely that the amount of revenue raised by the levy would be approximately \$9M. This additional amount will have been paid by the public of SA before any benefits from the proposed new system are felt.
5. No end date for the proposed levy has been announced.

The Society submits that the cost of developing the new system should be met from general revenue without imposing an additional burden on the already over-burdened property industry in this state.

Fees for "TATS history" searches

As you are aware, the Torrens System of land registration and government-guaranteed title originated in SA. It was always a feature of that system that the Register Book was open and available for public search without charge. In due course, with the advent of photocopiers, it became accepted that a service fee would be charged for the LTO to provide a photocopy of a Certificate of Title. At the same time, the physical Register Book could still be inspected without charge. The endorsements on Certificates of Title on the Register Book show the full history of dealings.

With the subsequent conversion of titles into electronic form, it was no longer possible to inspect a physical Register Book. A fee was charged for the supply of a search copy of a title which showed only the current state of the register, with no prior dealings. To fill the need to trace earlier transactions in certain situations, which no longer appeared on the face of the title, the "TATS history" search was made available at no charge. This form of search has remained free of charge until now.

The Society strongly objects to the proposal that "TATS history" searches will attract a fee of \$15 from 1 July 2011.

As all conveyancers know, it is often essential to investigate earlier transactions which do not appear on current title searches. Examples include:

- the need to check for changes in ownership within the previous 12 months to enable a Vendor's "Form 1" statement under the *Land and Business (Sale and Conveyancing) Act* to be completed;
- the need to check the existence of expired leases which no longer appear on the current title; and
- generally, ascertaining the dates when particular past instruments relating to a title were lodged and/or registered.

It is the view of the Society that the imposition of a fee of \$15 (or any fee) for such information, which should be part of an open, public register, is unreasonable.

Loss of search confirmation screens

It has also been announced that, after 1 July 2011, the names of registered proprietors will no longer appear on confirmation screens when products are ordered online from the Land Services Group.

The purpose of those confirmation screens is to enable searchers to check that the title details that have been entered are correct before fees are incurred. Without that ability, if the title reference is incorrect or is mis-keyed, the fees will have already been imposed before the error is realised. Those fees can be significant – currently \$242 for a Property Interest Report – and, again, are likely to increase further on 1 July.

Whilst we have been advised by the Registrar-General that the location or address of the searched property will be displayed on the screen, that information is often not sufficient to enable searchers to tell whether it relates to the correct party.

We have also been assured that there will be a facility to provide substitute Property Interest Reports in replacement of ones that have been ordered in error. However, the process of ascertaining the error, satisfying the Department of it and obtaining a replacement (assuming the correct title reference can be obtained) is likely to be cumbersome and time-consuming.


In summary, the removal of search confirmation screens will cause additional unnecessary inconvenience to members of the real estate and conveyancing industries and yet another cost burden on the public. In our view, this decision should be reversed.

Summary

The Society re-iterates its serious concern at these proposed developments and strongly urges that they be re-examined.

The Chair of the Society's Property Committee, Mr Philip Page, is available to be contacted if you have any questions concerning the matters raised or wish to discuss them further.

Yours faithfully



Ralph Bönig
PRESIDENT

cc. The Honourable John Rau MP, Attorney-General