

Guide to the Ramsey County Torrens System

Examiner of Titles Office
651-266-2886



NOTICE

Real estate law and the Torrens System are complicated and technical. While the Examiner of Titles office will attempt to assist members of the public with their questions and concerns, we cannot give legal advice, and strongly encourage the public to retain an attorney experienced in real estate law and the Torrens System.

I. INTRODUCTION

Minnesota Statutes, Section 508.12 provides that the Judges of the District Court shall appoint Examiners of Title to administer the registered land system, commonly referred to as the Torrens System. Applications and Petitions along with the fees are filed with the Court Administrator's office, Room 600 of the Ramsey County Courthouse, 15 West Kellogg Boulevard, St. Paul, Minnesota. All subsequent documents, however, are to be filed with the Examiner of Titles office, 90 West Plato Blvd., Suite 170, St. Paul, Minnesota, because the clerical staff of the Examiner of Titles office are also Deputy Court Administrators.

Pursuant to Minnesota Statutes, Chapter 508, and by court rules and special orders, the Examiner of Titles office has the following duties:

- 1) To examine title and to issue reports to the Judges of the District Court in initial proceedings to register title to land;
- 2) To examine petitions and to issue reports to the Judges of the District Court, in proceedings subsequent to initial registration of land;
- 3) To hear Default Torrens cases and those contested cases referred by the Court;
- 4) To hear default and contested Reduction in Redemption Period cases (both Torrens and abstract) and Quiet Title cases;
- 5) To supervise all Torrens proceedings;
- 6) To issue directives and certifications in administrative proceedings; and,
- 7) To serve as legal advisor to the Registrar of Titles.

The following summaries of these procedures are a guide to working with the Torrens System. Feel free to call the Examiner of Titles Office at 651-266-2886 for more detail or to discuss a particular problem.

II. INITIAL PROCEEDINGS FOR THE REGISTRATION OF TITLE TO LAND

To register title to land and bring it under the Torrens System, a District Court action must be brought in accordance with Chapter 508 of Minnesota Statutes. Most such actions are commenced to cure title defects. In this respect, a title registration proceeding is an alternative to an action to determine adverse claims (quiet title), and almost all attorneys in the St. Paul - Minneapolis metropolitan area use the title registration proceeding because of the advantages of the land registration system such as: no abstract after registration, elimination of ancient title defects and the conclusive nature of the certificate of title. You may wish to consult with the Examiner's office as to any defects or description problems prior to having the application executed.

The steps in an initial proceeding to register title to land are:

1. Execute an application and have it approved as to form by the Examiner of Titles. File it with the Court Administrator and have the Deputy Clerk make a certified copy. File the certified copy of the Application in the office of the County Recorder for recording. The Court Administrator's office will forward the court file to the Examiner's office.
2. Discuss with the Examiners what abstracting you have in hand. The abstract should be certified at least through the date of the Electronic Tract Index certification (presently, 1993). You must then provide a computer printout of the Electronic Tract Index and name searches against the applicant and anyone else in title in the last 10 years. The Examiner of Titles office may require you to furnish copies of documents not included in the abstract if they are numerous or complex.

The name search must include state and federal judgments, state and federal tax liens, and bankruptcies (including an additional bankruptcy search in the office of the clerk of federal district court) for all persons appearing in the chain of title for the past 10 years. See Title Standard 82.

3. The Examiner of Titles or Deputy will examine the abstract of title, the tract index printout, the searches, and the matters set forth in the application. The Examiner's Report will be filed and a copy will be mailed to the applicant's attorney of record. The report will include the Examiner's opinion on the title, name the necessary parties defendant, and set forth what evidence will be required at the hearing.
4. Upon receipt of the Report of Examiner, ascertain the current addresses of the parties defendant. Before you use an address taken from probate records or shown in a telephone or other directory, be sure to verify by personal contact or otherwise that it is the current address of the defendant. By using an incorrect or obsolete address, you may be required to republish the summons for another 3 weeks, and re-start the time to Answer.

5. Execute and verify the Petition for Summons and set forth the names and addresses of the parties defendant in the Order for Summons. If any defendant recommended by the Examiner is deceased and there has been a determination of the heirs or devisees of the party by a Minnesota Probate Court, those heirs and devisees should be named as defendants in lieu of the deceased party. A deceased party should never knowingly be made a defendant. If there has not been a Minnesota Probate Court determination of the heirs or devisees of a deceased party, there should be named as defendants "the unknown heirs of _____, deceased", and there should also be named as defendants all of the known heirs of the deceased party. (There should be evidence presented at the hearing and a finding in the Decree of Registration to explain substitution of parties for a recommended defendant who is deceased.)

Then prepare the Summons, confirming that the land description on it is the same as in the Report of Examiner and that the names of the defendants on it are the same as in the Order for Summons. Have the Order for Summons and Summons approved by the Examiner of Titles. The Examiner of Titles will obtain the Judge's signature on the Order for Summons at the Wednesday Torrens hearings and a signed and filed copy will be returned to you for service.

6. Fax or deliver a conformed copy of the Summons for publication in any legal newspaper in the county or deliver it to another authorized legal newspaper for publication. The Summons must be published once each week for three consecutive weeks. Attorneys will be billed directly for the cost of publication; Pro Se parties must make arrangements for payment prior to publication. Every Initial Registration proceeding requires publication, even if you are able to serve all named defendants.
7. After the first publication the publisher will deliver to the attorney copies of the published Summons known as "slips". Review the copy of the Summons carefully for any errors. If there are errors and they are identified early, you can save time and expense by immediately republishing. These slips or any conformed copy of the Summons may be used for service on defendants whose addresses are known. Service on defendants who reside in the State of Minnesota must be personal service as provided by Section 508.16 of Minnesota Statutes and by Rule 4 of the Rules of Civil Procedure for the District Courts of Minnesota. Defendants who are non-residents of the state are served by publication and by having the Examiner of Titles office mail a copy of the Summons to them. You must complete the form entitled "Notice to Administrator to mail copies of the Summons to non-resident defendants" and furnish pre-addressed, stamped envelopes to the Examiner of Titles office. Defendants whose addresses are unknown are served by publication.
8. A default exists when all of the following time periods have elapsed and no defendant files or serves an Answer:
 - a. 27 days after the date of the third publication;
 - b. 20 days after the last day of personal service on a defendant residing in the state;

- c. 23 days after the last day the Examiner of Titles staff as Deputy Court Administrator mailed a copy of the Summons to a defendant who is a non-resident of the state;
 - d. 30 days after substituted service on the Secretary of State for business entities as permitted by law; and,
 - e. 60 days after service upon the United States of America or any of its agents and officers.
9. Upon default, the attorney may call the Examiner of Titles Office directly to have the matter placed on the Torrens calendar for a Wednesday afternoon hearing. Abstracts need not be extended for the hearing unless specifically requested by the Examiner.
10. At least one week prior to the scheduled Wednesday hearing date, file all proofs of service, Affidavits as to the evidentiary matters, and the Affidavit of Default and Affidavit of Non-Military Service with the Examiner of Titles office, which will execute the Court Administrator's Certificate of No Answer together with the required recording fees and return envelope. At the same time deliver to the Examiner of Titles any unrecorded documents which are to be introduced in evidence at the hearing together with the original of your proposed Order and Decree of Registration. To determine whether a defendant has ever served in the military, you may check the service branches at the addresses listed on this website:
<http://www.defenselink.mil/faq/pis/PC09SLDR.html>.
11. Default hearings are held before the Examiner or Deputy Examiner of Titles at 2:00 p.m. in Room 170 of the Ramsey County Courthouse, 15 W. Kellogg Blvd., St. Paul, Minnesota on Wednesday afternoons. The Examiner will receive into evidence the abstract of title, Report(s) of Examiner and all documents and facts referred to in them, as well as the documents in the Court file which need to be in evidence. The applicant(s) must furnish evidence of whether he or she is at least 18 years of age, single or married, under any legal incapacity and other matters required in the Report(s) of Examiner. In addition, where there is a variation between the names of the parties recommended as defendants by the Examiner and the names of parties subsequently named and served as defendants, e.g., name changes, or heirs of a defendant who is deceased, the variation also must be explained in the Findings and supported by evidence.
12. Upon completion of the hearing, the Examiner will obtain the signature of a District Court Judge. The Examiner of Titles office will then enter the Order and Decree of Registration in the court records and provide a certified copy of it to the Registrar of Titles for filing.

All forms necessary for land registration proceedings can be obtained from the Examiner of Titles or at www.co.ramsey.mn.us/et/forms.htm. In those instances where there is not sufficient room on the forms to insert the necessary land description, names or other items, substitute forms should be prepared or typed in their entirety. Attached exhibits are discouraged as they frequently become separated from the form and misplaced, resulting in further problems.

If the application to register title **is contested**, the matter must be placed on the General Term calendar for Trial. If the parties consent, the case will be tried by the Examiner or Deputy Examiner. A contest arises when a party files either an Answer claiming some interest not admitted by the applicant, such as an easement, lien, unrecorded contract for deed, etc., or a Cross-Application claiming the fee title in all or part of the land in the proceeding.

If title is conveyed during the pendency of the proceeding, the grantee must file an Amended Application to register the title. Any new encumbrances should be noted in the Amended Application and covered in the Order and Decree of Registration. There is no filing fee for the Amended Application.

III. PROCEEDINGS SUBSEQUENT TO INITIAL REGISTRATION OF LAND

Once title to land is registered, most voluntary instruments executed by the registered owner or one with a registered interest, such as deeds, mortgages, assignments, contracts for deed and assignments, easement agreements, leases and assignments, and declarations of restrictions, if in proper form, will be accepted by the Registrar of Titles for filing. Also, various involuntary instruments, such as mechanic's lien statements, certified copies of judgments, execution and levies, attachments, notices of lis pendens, final certificates in condemnation, certified copies of resolutions by municipalities vacating land in streets or alleys and county auditor certificates as to title forfeiture for non-payment of delinquent taxes, if in proper form, will be accepted by the Registrar of Titles for filing.

However, there are several instances in which it is necessary to commence a "Proceeding Subsequent to Initial Registration of Land", examples of which are:

1. To adjudicate the validity of a Cancellation of a Contract for Deed and delete the memorial of it, or to obtain a new certificate of title following a foreclosure of a mortgage by advertisement.
2. To obtain a new certificate of title pursuant to tax sale, unless the forfeiture documents have been memorialized on the certificate for ten years or more.
3. To amend the land description on a certificate of title.
4. Other matters affecting a person's registered interest for which notice must be given.

The steps in a Proceedings Subsequent are:

1. Execute a petition, have it verified and file it with the Court Administrator in Room 600 of the Ramsey County Courthouse. The Petition does not need to be approved before filing. There are no standard forms as the relief sought is usually particular to the circumstances. Sample petitions are contained in 6A Minnesota Practice Methods 3rd Edition, Section 46.71 and in the 12th Annual Real Estate Institute (1994). The Hennepin County Examiner of Titles has some forms on line. If the petition is to register boundaries, you must secure a certified copy of the Petition from the Court Administrator and file it with the Registrar of Titles. You may record a certified copy of the Petition against any affected certificate of title in all other proceedings subsequent to provide notice of pendency of the proceedings.
2. The Court Administrator will forward the court file to the Examiner of Titles who will examine the matters alleged in the petition. The Examiner's Report will be filed and a copy will be mailed to the attorney of record. The report will include the Examiner's findings, name the necessary parties respondent and set forth what evidence will be required at the hearing, together with the proposed order.

3. Upon receipt of the Report of Examiner, ascertain the current address of any parties respondent and prepare an Order to Show Cause in the prescribed form directed to the respondents and returnable on a Wednesday afternoon at 2:00 o'clock P.M. Have the Order to Show Cause approved by the Examiner of Titles Office. The Examiner of Titles will obtain the Judge's signature and a filed copy will be returned to the attorney to use for service. The matter will then be placed on the Torrens Calendar pursuant to the Order to Show Cause. (If the petition is to register boundary lines, a Petition and Order for Summons and Summons must be used as in initial proceedings. The attorney should call the Examiner of Titles office directly to place the case on the calendar after time to Answer the Summons has expired).
4. The original Order to Show Cause need not be exhibited to the respondents, as required in many other types of civil actions. Conformed copies of it are used for service as follows:
 - a. On parties residing in the State of Minnesota, in the manner provided by law and Rule 4 of the Rules of Court Procedure for service of a Summons in a civil action at least 10 days prior to the hearing.
 - b. On parties who are not residents of the state, by mailing copies to them at their post office addresses by registered or certified mail, return receipt, at least 14 days prior to the hearing.
 - c. On parties who cannot be found, by publishing it once each week for two consecutive weeks in a legal newspaper and by mailing at least 10 days prior to the hearing copies to them at their last known addresses and at their addresses as stated in the certificate of title, if their addresses are so stated.
 - d. On government entities as set forth in the Report of Examiner.
5. On or before the Wednesday preceding the scheduled Wednesday hearing date, file all proofs of service with the Examiner of Titles together with the required recording fees and return envelope. At the same time deliver to the Examiner any unrecorded documents, which are to be introduced in evidence at the hearing, together with the original of the proposed Order. The Order should track the Examiner's Report with common sense changes, e.g. "should be served" in the Report becomes "has been served" in the Findings.
6. Hearings are held before the Examiner or Deputy Examiner of Titles at 2:00 o'clock P.M. on Wednesday afternoons in Room 170 of the Ramsey County Courthouse, 15 W. Kellogg Blvd., St. Paul, MN. If any objections are made or issues raised by any respondents, the proceedings will be continued or noted for trial and disposed of as in other civil proceedings. If the matter is uncontested, the Examiner will receive into evidence the Report(s) of Examiner and all documents and facts referred to, as well as the documents in the Court file which need to be in evidence. The petitioner(s) must furnish evidence to those matters required by the Examiner's report. You may conduct

your own bankruptcy search on-line (if required in the report) at <http://www.pacer.uscourts.gov>, and your own search to determine whether a person has ever served in the military; check the service branches at the addresses listed on this website: <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. Your findings in these searches should be submitted to the Examiner in affidavit form. In addition, where there is a variation between the names of the parties recommended as respondents by the Examiner and the names of parties subsequently named and served as respondents, the variation also must be explained and justified by evidence covered by separate findings of fact in the Order.

7. The attorney for the petitioner in routine Proceedings Subsequents may elect not to appear in person. In such cases, the evidence required in the Report of Examiner must be submitted at least one week in advance by affidavit along with the proposed Order and Affidavits of Service and recording fees. Should there be any appearance in opposition, the hearing will be continued for two weeks to permit the respondent to file a written Answer. If that is done, the matter will be placed on the calendar of contested matters.
8. Upon completion of the hearing the Examiner will obtain the signature of a District Court Judge. The Examiner of Titles office will then enter the Order in the court records and deliver a certified copy of the Order to the Registrar of Titles for filing.

IV. CERTIFICATIONS AND DIRECTIVES BY THE EXAMINER

Chapter 508 of Minnesota Statutes provides that certain instruments may not be accepted for filing by the Registrar unless certified by the Examiner (or Deputy Examiner) or pursuant to a Court Order. The following is representative of the situations where a directive or certificate by the Examiner may be used instead of a court order.

1. Familiar Examples:

- a. Probate transfers, by deed or decree (Minn. Stat. §508.62 & §508.69), including conveyances by personal representatives, guardians, conservators, probate decrees, orders directing and confirming sales by conservators/guardians.

[NOTE: The Registrar in Probate does not have the authority to determine heirship, which can only be done after Notice and a hearing. Deeds of Distribution by informally appointed Personal Representatives of intestate decedents will not be accepted as valid transfers, without a court order.]

- b. Marriage dissolution (Minn. Stat. §508.59).

Minn. Stat. 518.191, Subd. 3, provides, in relevant part:

“. . . if a summary real estate disposition judgment has been approved by the court, the summary real estate disposition judgment, rather than the judgment and decree, ***must be recorded***” [emphasis added]

Pursuant to statute, our procedure will be as follows:

- If a certified copy of a Summary Real Estate Disposition Judgment (SREDJ) or Divorce Decree is accompanied by a properly executed Quit Claim Deed given by the former spouse, the Registrar of Titles will accept them for filing without a Certificate from the Examiner of Titles.
- If a certified copy of a SREDJ or Divorce Decree is not accompanied by a Deed, you must obtain our Certificate of Examiner before the Registrar will accept it. Minn. Stat. 508.59.
- If you submit a certified copy of a Divorce Decree instead of a SREDJ, our office will check the Court File to see if contains a SREDJ. If it does, we will not approve the Decree; instead, you must provide a certified copy of the SREDJ to obtain our Certificate of Examiner. This may significantly delay approvals.

The easiest way to avoid problems will be to submit a certified copy of the SREDJ instead of the Divorce Decree.

- c. Trustees' deeds and plats (Minn. Stat. §508.62, allowing a "Certificate of Trust" (Minn. Stat. §501B.56) and Affidavit of Trustee (Minn. Stat. §501B.57) in lieu of a full, recordable trust instrument).
 - d. Eminent domain court order or final certificate (Minn. Stat. §508.73, subd. 1). A residue certificate may be requested for any part of the land not taken.
 - e. Deeds from Chapter 315 Religious Corporations (Minn. Stat. §508.13 and §315).
 - f. Power of Attorney transfers.
2. Authority for the Examiner to Issue Directives:
- a. Directives by Examiner under Minn. Stat. §508.71, subd. 3, which authorizes the Examiner to delete the recital or memorial of documents:
 - i. - relating to racial restrictions
 - barred by statute, or
 - which have expired by the terms of the instrument; and
 - ii. authorization to order the Registrar to show a correction of a name on a certificate of title.
 - b. Mortgage foreclosures by action (Minn. Stat. §508.58, subd. 2; Examiner may also direct the Registrar to delete documents related to the foreclosure).
 - c. Tax titles (Minn. Stat. §508.67, subd. 2; the auditor's certificate of forfeiture, sale or a state assignment certificate must have been of record for at least 10 years. May also direct the Registrar to delete related instruments).
 - d. Adding vacated streets and alleys (Minn. Stat. §508.73, subd. 2; under most situations the Examiner may direct the Registrar to add vacated streets and alleys to the legal description).
 - e. Appeals from rejected documents by Registrar of Titles (Minn. Stat. §508.321).
 - f. Common Interest Community Declarations, ByLaws and Amendments (Minn. Stat. §508.351, subd. 1).

Requests for Directives should be made in writing by the registered owner or other party in interest. Requests regarding Mortgage Foreclosures by Action should include a two-year bankruptcy search of the names of the registered owners through the expiration of the time for redemption. You may conduct your own bankruptcy search on-line at <http://www.pacer.uscourts.gov>, then describe the results of your search in an affidavit accompanying your request for directive.

All deeds must be fully executed and acknowledged. The supporting documentation required by the Examiner is generally the same as is contained in the so-called "White Pages" included with the Minnesota Title Standards, which is published by the Real Property Section of the Minnesota State Bar Association. Practitioners are encouraged to contact the Examiner or a Deputy Examiner with questions regarding specific transfers.

3. Claim of Unregistered Interest:

Minnesota Statutes 508.70 provides a procedure for filing a claim of unregistered interest. This can be used to cover, for instance, lost documents or purchase agreement disputes. The procedure is modeled after mechanics lien claims and strict compliance is required. See the statute and the form prescribed therein. A sample form is online at <http://www.commerce.state.mn.us/ucb/40.7.1.pdf>.

Approval by the Examiner's office is required before filing with the Registrar of Titles.

This procedure replaces the former provision for Notice of Adverse Claims, which will not be accepted for filing.

4. Pursuant to Minn. Stat. §508.40, Owner's Duplicate Certificates of Title have been eliminated and are no longer required to be presented when filing documents.
5. Affidavits of Purchaser of Registered Land are no longer required.

V. REGISTRAR OF TITLES AUTHORITY

Matters which the Registrar of Titles may handle without directive by the Examiner of Titles or Order of this Court:

1. Mechanics Liens - Automatically delete upon transfers when more than one year has passed since the date of last work as noted on the lien statement and there has not been filed a Notice of Lis Pendens relating to a foreclosure action. (Minn. Stat. §514.12, subd. 3)
2. Divorce Decree and Summary Real Estate Disposition Judgment - which is accompanied by a Quit Claim Deed from the divested spouse dated after the decree is sufficient for the Registrar of Titles to transfer title to the awarded party. (Minn. Stat. §508.71, subd. 4 and §508.52)
3. Tax Sales – Receipt or Certificate of County Treasurer showing redemption or payment of any tax described in a Certificate of Title (e.g., the Certification of no delinquent taxes endorsed on a deed prior to presentment to Registrar) and state deed to purchaser of tax forfeited land. (Minn. Stat. §508.71, subd. 4)
4. Name changes or marital status changes
 - a. Certified copies of Marriage Certificate (Minn. Stat. §508.71, subd. 4.)
 - b. Certified copy of death certificate to remove spousal interest of non-titled deceased spouse. (Minn. Stat. §508.71, subd. 4)
5. Joint Tenancy/Life Estate - certified copy of death certificate of deceased joint tenant/life tenant, together with an Affidavit of Identity and Survivorship (Minn. Stat. §508.71, subd. 5)
6. Correction of Registrar's Clerical Errors – Registrar of Titles may prepare and file a correction document correcting any clerical error or omission made in producing new certificates of title. Typical examples:
 - typographical errors in spelling names or subdivision titles from deed or preceding certificate; error must be clear from face of instrument and not adversely affect the interest of a party (Minn. Stat. §508.71, subd. 1a, effective January 1, 2000)

7. UCC Financing Statements - lapsed financing statements and lapsed continuation statements may be removed one year after lapse (Minn. Stat. §336.9-522)

[UCC Statements and continuation statements are good for 5 years from filing (Minn. Stat. §336.515(a)]

8. Mortgages – Do not carry forward upon transfer pursuant to the filing of a satisfaction or release (Minn. Stat. §508.56 and §508.52) or Certificate of Release by Title Insurance Company (Minn. Stat. §507.401, subd. 5 and §508.52)