

REPORT OF THE FEE COMMISSIONER

TO THE

**BOARD OF DIRECTORS,
LAND TITLE AND SURVEY AUTHORITY
OF BRITISH COLUMBIA**

AND

**MINISTER OF FORESTS, LANDS AND
NATURAL RESOURCE OPERATIONS,
PROVINCE OF BRITISH COLUMBIA**

May 22, 2015

**Report of the Fee Commissioner to the
Board of Directors, Land Title and Survey Authority
of British Columbia, and
Minister of Forests, Lands and Natural Resource Operations,
Province of British Columbia**

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Appendix 1

LTSA Proposal to Fee Commissioner for Base Fees in respect of
LTSA Statutory Services to which Base Fees have never been
established (the "Proposal")

A. Terms of Reference and Purpose of Report

2015 Amendments to *Land Title Act*

In May 2015, the BC legislature passed Bill 25, the "*Forests, Lands and Natural Resource Operations Statutes Amendment Act, 2015*". As of the date of this report, the provisions of Bill 25 have not yet been enacted.

In part, the legislation, when enacted, will amend the *Land Title Act* (the "*Act*") by reducing the number of Statutory Fee categories in Schedule 2 of the *Act* for the stated purpose of improving customer services, delivered by or under the direction of the Registrar of Land Titles or the Surveyor General, by combining fee categories based on common customer themes and by eliminating obsolete categories. Also, Statutory Fees would be recalculated to take into account the complexity of various services and eliminate fee differences between on-line and face-to-face services, recognizing that most of the business of the Authority is already on-line. In addition, new Statutory Fees would be established for services that have evolved over time and for which there is no fee at present. The legislation also provides the opportunity to rebalance the Statutory Fees and reasonably account for inflation.

While Statutory Fees, payable to the Province, may be established through action of the legislature, Base Fees payable to the LTSA for statutory services rendered are required to be set in accordance with the current Operating Agreement between the LTSA and the Province. That agreement includes the stipulation that new Base Fees for statutory services for which there previously were no Base Fees charged may be established on the basis of an independent Fee Commissioner's determination and in accordance with the public interest criteria set out in the Operating Agreement.

Fee Commissioner Appointment

By letter dated May 13, 2015 to the Chair of the Board of Directors (the "Directors") of the Land Title and Survey Authority of British Columbia (the "LTSA" or the "Authority"), the Minister of Forests, Lands and Natural Resource Operations, Province of British Columbia (the "Minister"), confirmed his consent to the joint appointment of myself as Fee Commissioner. In doing so, the Minister stated he had duly considered the mutual efforts of the Ministry and the Directors to streamline the customer fees associated with land title and survey services, as well as the public interest criteria for appointing a Fee Commissioner as set out in Schedule E of the LTSA's Operating Agreement with the Province.

As Fee Commissioner, I am asked to provide a public report to the Directors and the Minister regarding my consideration of the matters set out in the LTSA's Proposal (see attached Appendix 1). A summary of the Proposal (as described in the Minister's letter) is to provide a determination on:

- housekeeping changes to provide for an LTSA Base Fee in respect of a number of matters where LTSA provides a statutory service, as a result of an oversight, a corresponding Base Fee was never established; and
- new statutory service(s) being contemplated by LTSA that will require formal authorization of corresponding Base Fee(s).

Further details regarding the LTSA Proposal for new Base Fees are set out below.

Fee Commissioner Responsibilities

Section 20 of the *Land Title and Survey Authority Act* provides for a Fee Commissioner to be appointed in circumstances where the Directors propose to increase a fee (referred to as a "Base Fee") in a year by an amount that is more than is authorized in the operating agreement between the LTSA and the Minister, or set a fee in respect of a service or other matter for which there was previously no fee.

The Directors must submit their proposal in writing to the Commissioner and the Commissioner must accept, reject or vary the proposal so that the proposal is satisfactory to the Commissioner. The Commissioner's decision is required to be made in accordance with any criteria set out in the Operating Agreement between the LTSA and the Province.

The Operating Agreement, Schedule D sets out the criteria for the Commissioner's decisions as to fee increases, those criteria being:

- the increase in fee or new fee established must be consistent with the not-for-profit nature of the Authority;
- the increase in fee or new fee established must relate to
 - the actual cost of service for the particular activity or set of activities,
 - take into account direct and indirect costs of the Authority, including without limitation, contingency and insurance requirements, and
 - users' needs for efficient services;
- the increase in fee or new fee established should be consistent with general economic conditions in the Province and therefore be consistent with the ability of users of the land title and survey systems to pay for services rendered;
- the decision of the Commissioner must be made in a timely manner, having regard to the Authority's obligations under sections 5.03 and 5.04 of the Operating Agreement; and
- the decision of the Commissioner must be made public by the Commissioner.

B. Process Followed by Fee Commissioner

In carrying out the responsibilities of Fee Commissioner, I have considered the relevant business cases provided to me by the LTSA. As well, I have received and reviewed additional financial documentation requested by me from LTSA officials. I have discussed with senior LTSA officials various documents supplementary to the business cases, and have consulted other information sources I considered relevant to the LTSA Proposal. I confirm that I have received all of the information and explanations I have required.

C. Land Title and Survey Authority

The Land Title and Survey Authority Act established, as of January 20, 2005, the Land Title and Survey Authority of British Columbia as a regulated, self-governing not-for-profit authority without share capital, independent of the provincial government.

The purposes of the LTSA are to manage, operate and maintain the land title and survey systems of British Columbia, to facilitate the execution of Crown grants under the direction of government, and to carry on other activities related to the land title and survey systems.

The LTSA is wholly funded from revenues generated through fees charged for services provided to customers. It is responsible for ensuring that amounts charged for its services are, at all times, justifiable and reasonable. The Authority must use all earnings to: add or improve services in accordance with its purposes; fund or maintain reserves; fund capital expenditures; and repay debt or reduce Base Fees.

The LTSA reports directly to the public on the operations of the Land Title Offices and Office of the Surveyor General of British Columbia.

An Operating Agreement between the Province and the LTSA, effective January 20, 2005 (amended August 27, 2013), established the conditions for the Authority's carrying out of its legislated purposes. The term of the agreement is 60 years, with the parties required to conduct a performance review every five years, and to review every 10 years the sufficiency of LTSA revenues.

D. Base Fees for Statutory Services

Section 19(1)(e) of the *Land Title and Survey Authority Act* requires the Directors to prepare bylaws of the Authority that set fees payable under the *Land Act*, the *Land Title Act*, the *Mineral Tenure Act*, or any other enactment for services

provided by the registrar appointed under the *Land Title Act*, the Surveyor General or a person under the direction of the registrar or Surveyor General. Fee tables set out in section 13.1 of the LTSA bylaws detail the fees currently charged by the Authority for a transaction, service or other matter as itemized in the tables.

Article 5 and Schedule A of the Operating Agreement together establish the revenue that may be retained by the Authority from “Base Fees” charged for services provided. Section 5.03 provides for Base Fees to be adjusted annually (the “Adjusted Fees”), if required, so long as the Adjusted Fees do not exceed the amount obtained by multiplying each Base Fee by the adjusted consumer price index for the 12-month period that ends on November 30th of the previous fiscal year. These fees are separate from “Statutory Fees” collected by the Authority on behalf of the Province. The fee paid by a customer for LTSA services is the sum of the LTSA Base Fee and the Province’s Statutory Fee for those services.

E. LTSA Financial Position at December 31, 2014

The LTSA unaudited financial statements for the nine months ended December 31, 2014 indicate that the Authority is currently in a healthy financial position. Revenues for the nine months to December 31 approximated \$25.1 million, net income and comprehensive income approximated \$6.6 million, and at December 31 total equity exceeded \$53 million.

F. LTSA Financial Projections to March 31, 2020

The LTSA’s financial projections indicate that operating margins for the fiscal years 2015 and 2016 are expected to remain close to or exceed the long-term historical average of 18 percent. The launch of ParcelMap BC into production in 2017 will, however, add significant costs that were previously capitalized without adding additional revenue. As a result, the operating margin in 2017 is expected to decrease to 14 percent, with margins in 2018-2020 expected to further decline to around eight percent and remain there for several years as the capital cost of ParcelMap BC is amortized.

Cash flow projections for the fiscal years 2016-2020 indicate annual positive cash flows, in most years approximating \$2.3 million.

G. LTSA Proposal

The LTSA Proposal submitted to the Fee Commissioner is to establish Base Fees in respect of two categories of LTSA statutory services for which Base Fees have not previously been established.

The two categories are:

- new statutory services as a result of the fee simplification initiative and replacement of *Land Title Act*, Schedule 2; and
- existing statutory services for which no LTSA Base Fee has previously been established.

A copy of the LTSA Proposal is attached as Appendix 1.

H. Proposal Criteria and Analysis

The new statutory services under s.218 and s.219 of the *Land Title Act*, and the existing statutory services under s.108 of the *Land Title Act* and s.58 of the *Land Act* for which no Base Fee has previously been established, require approximately the same LTSA adjudication time and resources as other applications for which the LTSA will have a Base Fee of \$202.39 under the new Schedule 2 of the *Land Title Act*.

The new Schedule 2 fee was arrived at in negotiation with the Province to ensure LTSA revenue neutrality, to price LTSA examination services based on relative effort and to have no large changes in the fee that customers pay for LTSA services. The current LTSA proposal to institute the same Base Fee of \$202.39 as the Base Fee for those services referred to above will ensure customers pay a consistent price for plan examinations.

The existing statutory services provided under s.22 of the *Land Title Act*, which deals with zoning regulations filed in support of the federal *Aeronautics Act*, have been calculated to require a Base Fee of \$1.82 per title to cover the LTSA's labour and overhead costs plus a 15 percent margin in the Land Title Division in order to generate sufficient profit to continue to reinvest in land title and survey systems.

The current LTSA Base Fee Proposal in respect of the statutory services referenced above is consistent with the not-for-profit nature of the Authority and reflects the actual operating costs of delivery of LTSA services.

I. Considerations External to the LTSA

It is important that LTSA Base Fees be considered in the context of the state of the overall provincial economy and, in particular, the financial impact of such fees on the users of the Authority's services. In this regard, it is recognized that the fees charged by the Authority are a very small proportion of the total service fees and expenses that are incurred by its customers in relation to their property transactions. As well, in respect of the Base Fee proposal herein being reviewed,

the imposition of the proposed fees is calculated, when integrated into the new simplified schedule of LTSA Base Fees, to have a neutral effect on the overall LTSA annual fee revenue.

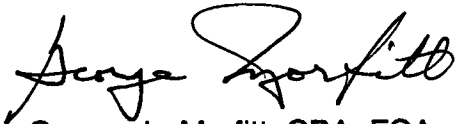
While I have not undertaken a review of the fees charged in other provincial jurisdictions for similar services, I am advised by LTSA officials that, in general, fees charged by the LTSA are in the mid-range of such charges and would remain so after imposition of the few proposed Base Fees reviewed in this report.

J. Fee Commissioner Determination Regarding LTSA Base Fee Proposal

Taking into account the considerations set out above, is my determination as Fee Commissioner that the LTSA be authorized to implement, as soon as is practicable, the proposed Base Fees set out in Appendix 1 to this report.

I consider the imposition of these fees to be reasonable, financially prudent and consistent with the ability of users of LTSA services, in general, to pay for services rendered.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George Morfitt", with a stylized, cursive script.

George L. Morfitt, CPA, FCA
Fee Commissioner

Appendix 1

[As Approved by LTSA Board of Directors on May 14, 2015]

LTSA Proposal to Fee Commissioner for Base Fees in respect of LTSA Statutory Services to which Base Fees have never been Established (the "Proposal")

Matter	Service	Statutory Fee	Base Fee [For Determination by the Fee Commissioner]
1. New Statutory Service as a result of fee simplification initiative and replacement of <i>Land Title Act</i> Schedule 2	a. Applications to the SG to designate persons able to create a statutory right of way under s.218(1)(d) of the <i>Land Title Act</i> and applications to the SG to hold a covenant under 219(3)(c) <i>Land Title Act</i>	\$247.40 [LTA Replacement Schedule 2 – Item 8(d)] [New]	\$202.39 [New]
	b. Applications to the SG to approve the assignment of a covenant under s.219(11)(b) of the <i>Land Title Act</i>	\$247.40 [LTA Replacement Schedule 2 – Item 8(e)] [New]	\$202.39 [New]
2. Existing Statutory Service for which no LTSA Base Fee previously established	a. Applications to the SG for an exemption under s.108(3) <i>Land Title Act</i>	\$500 [LTA Regulation s. 2] [Existing]	\$202.39 [New]
	b. Applications to the Registrar to file zoning regulations made under the <i>Aeronautics Act</i> (Canada) (s.22)	\$1.00 for each indefeasible title to which the plan relates [LTA Regulation s. 22] [Existing]	\$1.82 for each indefeasible title to which the plan relates [New]
	c. Application to the SG under s. 58 of the <i>Land Act</i> for inclusion of a body of water or road on a Crown grant	\$500 [Crown Land Fees Regulation, Item 1 Section 2] [Existing]	\$202.39 [New]

Notes:

- Items 1 (a) and (b) above – The Province has established two new Statutory Fees and they are included in the new *Land Title Act* Schedule 2 and set out in the Statutory Fees column above. The LTSA Base Fee amount reflected in the Base Fee column at 1 (a) and (b) reflects amounts agreed to in collaboration with LTSA and the Province and as part of the fee simplification initiative and meets the agreed-to revenue neutral approach for LTSA and the Province.
- Item 2 above – Three existing Statutory Fees are noted above and these fees previously existed however did not have a corresponding LTSA Base Fee associated with each. LTSA wishes to establish a LTSA Base Fee amount for these services and the amounts in the Base Fee column at:
 - 2 (a) and (c) align with the Base Fees proposed for similar services in the new Schedule 2; and
 - 2 (b) represent a recommended amount that is commensurate with the cost of providing the service