

**CIRCULAR LETTER NO. 421**  
(Supersedes Circular Letter No. 350)

June 4, 2004

**TO ALL BRITISH COLUMBIA LAND SURVEYORS**

**Re: *Land Title Act, Section 108 - Application and Plan Requirements***

Bill 73, *Sustainable Resource Management Statutes Amendment Act, 2003*, amended Section 108 of the *Land Title Act* by transferring authority to grant exemption under Section 108(3) from the Lieutenant Governor in Council to the Minister of Sustainable Resource Management. Pursuant to Section 108(3.1), the Minister has delegated the power to make an order to exempt the action of Section 108(2) to the Surveyor General. This circular letter supersedes Circular Letter No. 350 and outlines the application process and plan certificate requirements.

An application shall be made directly to the Surveyor General Branch and shall contain the following:

1. Three copies of a preliminary plan signed by a British Columbia Land Surveyor (BCLS) clearly depicting:
  - The natural boundary according to the plan on which the existing title is based;
  - The present natural boundary, if it is evident;
  - The present mean high water line (i.e. limit of fill or excavation), if it differs from the present natural boundary or if the present natural boundary is not evident;
  - All survey points (monuments and traverse hubs) in the vicinity of the present natural boundary; and
  - Plotted positions and directions of photographs required under section 2 below.
  
2. Two sets of dated colour ground photographs clearly depicting:
  - The location of the present natural boundary, if it is evident;
  - The location of the existing title boundary;
  - The location of the present mean high water line (i.e. limit of fill or excavation), if it differs from the present natural boundary or if the present natural boundary is not evident;

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- All survey points (monuments and traverse hubs) in the vicinity of the present natural boundary flagged and identified;
  - The side boundaries of the application area; and
  - The present natural boundary of adjacent properties, in order to provide a clear indication of how this application fits within the overall area.
3. Information about the body of water affected by the application including:
    - The name, if any;
    - Whether it is under the jurisdiction of a harbour authority;
    - Whether the water level is controlled and, if so, by whom, for what purpose and by what means; and
    - Details regarding excavation of man-made waterway, if applicable.
  4. Detailed reasons for requesting the exemption.
  5. A copy of all pertinent *Land Title Act* plans.
  6. A copy of a composite map of the area, preferably at a scale of either 1:5000 or 1:2500, showing the subject application area and nearby properties.
  7. The prescribed fee shown on the Surveyor General Branch website.
  8. The municipal address of the subject property.

The application will be reviewed by a branch land surveyor. Occasionally, it is deemed necessary to conduct an onsite inspection of the application area. The branch will determine the method by which this will occur. There are three options available.

- A Land Officer from the appropriate regional office of Land and Water British Columbia Inc. will conduct the inspection;
- A staff BCLS from the Surveyor General Branch will conduct the inspection; or
- A private consultant registered with the Surveyor General Branch will conduct the inspection.

The applicant will be responsible for all expenses incurred as a result of an inspection of the application. Costs will be determined prior to the inspection and the applicant will have to pay these costs in advance.

If approval of the application is issued by this office, the surveyor shall complete the survey in accordance with that approval. The final plan shall clearly show the “*Limit of Exempt Submerged Land*” and the following certificate shall be drafted thereon:

Pursuant to Section 108(3) of the Land Title Act, land dealt with hereon, shown covered by water and not designated “Returned to Crown in Right of the Province”, is not deemed to be transferred to the Crown by virtue of an exemption by Ministerial Order, to the action of Section 108(2) of the Land Title Act.

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for the Minister of Sustainable Resource Management  
Victoria, B. C.

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The final plan and one paper copy shall be forwarded to the Surveyor General Branch once all owners and charge holders and the approving authority (if applicable) have signed the plan, whereupon the certificate pursuant to section 108(3) of the *Land Title Act* will be signed by or on behalf of the Minister. Once the plan is signed, it will be returned along with the order for Land Title Office deposit.

Additional guidance and information may be obtained from the Surveyor General Branch. Please be advised that this office encourages applications to be made by electronic means.

Yours sincerely,

Rick Hargraves, B.C.L.S.  
Surveyor General and Director