

B.C. Reg. 451/87
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Expropriation Act

Expropriation Act General Regulation

[includes amendments up to B.C. Reg. 295/2006, November 13, 2006]

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Interpretation

1 In this regulation:

"Act" means the Expropriation Act;

"court" means the Supreme Court.

[am. B.C. Reg. 96/2005, s. 1.]

Requirements of notice

2 (1) An expropriation notice or an amended or modified expropriation notice filed in the land title office under sections 6 (1) (d), 16 (2) or 18 (5) (a) of the Act shall have the original signature of an authorized signatory of the expropriating authority or be certified by an authorized official of the expropriating authority as a true copy of the original.

(2) Where the expropriating authority has and uses a common seal on the original, it must be imprinted on the land title office copy.

Requirements of plan

3 (1) If less than an entire parcel is affected by the expropriation and a fee simple interest is intended to be expropriated,

(a) a copy of a reference or explanatory plan must be attached to the expropriation notice, and

(b) the application to file the notice in the land title office must be accompanied by a plan package that

(i) complies with section 67 (s) of the Land Title Act, or

(ii) in the case of an electronic plan, complies with section 168.721 of the Land Title Act.

(2) If less than an entire parcel is affected by the expropriation and an interest less than the fee simple is intended to be expropriated,

(a) a copy of a reference or explanatory plan must be attached to the expropriation notice, and

(b) the application to file the notice in the land title office must be accompanied by a plan package that

(i) complies with section 67 (s) of the Land Title Act, or

(ii) in the case of an electronic plan, complies with section 168.721 of the Land Title Act,

unless the application to file the notice includes a description of the area of the parcel and the interest to be affected by the expropriation, in a method contemplated by section 58 (1) of the Land Title Act, that is contained in a written instrument in form and substance capable of registration as a charge under the Land Title Act.

[en. B.C. Reg. 295/2006, s. 1.]

Security interests

4 (1) For the purposes of section 37 of the Act, the court shall establish the value of a security interest in the expropriated land by determining the market value of the security interest at the date of expropriation referred to in section 29 of the Act.

(2) When the amount owing to the security holder is greater than the market value of his security interest and there is no collateral security other than the covenant of the purchaser or borrower to pay the amount of the debt, the security interest shall be deemed to be fully paid, discharged and satisfied on payment to the security holder of the market value of the security interest.

(3) When the amount owing to the security holder is greater than the market value of his security interest and there is collateral security other than the covenant of the purchaser or borrower to pay the amount of the debt, and whether that collateral is by way of security on other property or a guarantee of a third party or otherwise, the compensation shall not fully discharge the debt and the court shall determine the balance remaining and the manner in which it is to be repaid.

(4) When the expropriation is of a part of land that is subject to a security interest, the court must determine the market value of the expropriated part and must allocate the compensation between the security holder and the other owners as it considers just in the circumstances.

[am. B.C. Reg. 96/2005, s. 2.]

Disturbance damages for security holders

5 (1) When the expropriated land is subject to a security interest, the expropriating authority shall pay to the security holder 3 months' interest at the rate prescribed in the security document or, if no rate is prescribed, at the rate that would normally be payable in respect of the security on the amount of outstanding principal.

(2) When the court makes a determination under section 31 (3) of the Act, the amount payable under subsection (1) shall be in the same proportion in relation to the total payment made on account of interest that the land being expropriated and subject to the security interest is to the entire amount of land subject to the security interest.

[am. B.C. Reg. 96/2005, s. 3.]

Forms

6 The forms numbered 1 to 9 in the Schedule are prescribed for the purposes of the Act and shall be used where applicable.

Repealed

7 Repealed. [B.C. Reg. 17/2005, Sch. 3, s. 1.]

Appraisal report

8 For the purpose of section 20 (3) of the Act, the following persons may prepare appraisal reports:

- (a) a person designated A.A.C.I. by the Appraisal Institute of Canada;
- (b) a person designated as a Certified Appraiser R.I. (B.C.) by the Real Estate Institute of British Columbia;
- (c) in respect of partial takings only, a person designated SR/WA by the International Right of Way Association.

[en. B.C. Reg. 25/88.]

Schedule

Expropriation Act

List of Forms

FORM 1

(Section 6 (1)) Expropriation Notice

FORM 2

(Section 10 (3)) Notice of Request for Inquiry

FORM 3

(Section 13 (1)) Notice of Request for Speedy Inquiry

FORM 4

(Sections 16 (2) and 18 (5)) Amended Expropriation Notice

FORM 5

(Section 18 (2)) Certificate of Approval of Expropriation

FORM 6

(Section 18 (6)) Cancellation of Expropriation Notice

FORM 7

(Section 19 (2)) Notice of Abandonment

FORM 8

(Section 20 (1)) Notice of Advance Payment

FORM 9

(Section 23 (1)) Vesting Notice

Land Title Act

Application

NATURE OF APPLICATION: Expropriation Notice

HEREWITH FEES OF: \$.....

FULL NAME, ADDRESS AND TELEPHONE NUMBER of person presenting application:

.....
SIGNATURE OF APPLICANT OR
SOLICITOR OR AUTHORIZED AGENT

NOTE: The above Application shall only appear on the copy of the Expropriation Notice filed in the Land Title Office.

Expropriation Act

Form 1

[am. B.C. Reg. 96/2005, s. 4.]

(Section 6 (1))

Expropriation Notice

Expropriation Notice No.
(to be filled in by Land Title Office)

TO: [Name of Owner(s)]
[Municipal Address]
AND: [Name of Approving Authority]
[Address]
AND: Registrar,
[Name] Land Title Office
TAKE NOTICE that

1. [Full name, address and telephone number of expropriating authority] (the "expropriating authority") intends to expropriate land or an interest in land in respect of which [name of owner(s)] is [are] the registered owner[s], the particulars of which are as follows:
[Provide legal description of parcel affected, parcel identifier number and civic address.]
2. The nature of the interest in the land intended to be expropriated is [specify the nature of interest or limited interest; if the interest being expropriated is less than the fee simple estate and is required for a limited period of time (e.g. term of years in a lease), state expiry date].

NOTE: Where an interest less than the fee simple is indicated, the Expropriation Notice must be accompanied by a written instrument in form and substance capable of registration as a charge under the Land Title Act.

3. The work or purpose for which the interest in the land is required is [describe the work or purpose].
4. The approving authority with respect to this expropriation is [full name, address and telephone number of the approving authority].
5. Where an owner is eligible under section 10 of the Expropriation Act to request an inquiry, the minister and the expropriating authority must be served with a Notice of Request for Inquiry (Form 2), a copy of which is attached hereto, within 30 days after the date this Expropriation Notice is served on the owner.
6. Where less than an entire parcel is affected by the expropriation and a fee simple interest is intended to be expropriated, a copy of a reference or explanatory plan must be attached to this Expropriation Notice and the application to file the notice in the Land Title Office must be accompanied by a plan package that complies with section 67 (s) of the Land Title Act.

[or, in the alternative]

[Where less than an entire parcel is affected by the expropriation and an interest less than the fee simple is intended to be expropriated, a copy of a reference or explanatory plan must be attached to this Expropriation Notice and the application to file the notice in the Land Title Office must be accompanied by a plan package that complies with section 67 (s) of the Land Title Act unless a description, satisfactory to the Registrar, of the area to be affected by the expropriation is contained in a written instrument in form and substance capable of registration as a charge under the Land Title Act.]

[include where an inquiry officer has been appointed]

[AND FURTHER TAKE NOTICE that an inquiry officer has been appointed under section 13 (1) of the Expropriation Act for the purposes of an inquiry on [date] at [time], to be held at [place].]

[include where a direction is made under section 23 (2) (c)]

[AND FURTHER TAKE NOTICE that the expropriating authority intends to make a direction to the registrar of land titles under section 23 (2) (c) of the Expropriation Act as follows:

[Describe the charge(s) exempt from cancellation, including type and registration number]]

DATED at..... this..... day of....., 20.... .

[Name of Expropriating Authority]

By:

(Authorized Signatory)

Expropriation Act

Form 2

[am. B.C. Reg. 96/2005, s. 5.]

(Section 10 (3))

Notice of Request for Inquiry

TO: The Attorney General and Minister Responsible for Treaty Negotiations

AND TO: [Name and address of Expropriating Authority]
TAKE NOTICE that [Name, address], being an owner whose land is included in an Expropriation Notice dated [month, day], 20...., hereby requests that the minister appoint an inquiry officer to conduct an inquiry under section 10 of the Expropriation Act.

AND FURTHER TAKE NOTICE that the particulars in support of this request are as follows:

1. [Legal description of land to be expropriated.]
2. [Describe interest owner has in land to be expropriated.]
3. [State reasons for requesting inquiry.]

NOTE: This notice must be served on the board and the expropriating authority within 30 days after the date the Expropriation Notice was served on the owner.

DATED at this day of, 20..... .

[Name of Owner or Agent]

[Address]

[Telephone Number]

By:

(Authorized Signatory)

Expropriation Act

Form 3

[am. B.C. Reg. 96/2005, s. 6.]

(Section 13 (1))

Notice of Request for Speedy Inquiry

TO: The Attorney General and Minister Responsible for Treaty Negotiations

AND TO: [Name and address of Expropriating Authority]

TAKE NOTICE that

1. [Name of expropriating authority] (the "expropriating authority") intends to serve an Expropriation Notice under section 6 of the Expropriation Act (the "Act") affecting [legal description of land to be expropriated.]
2. The expropriation is required in respect of [state general purpose of proposed expropriation].
3. The expropriating authority hereby requests the appointment of an inquiry officer under section 13 (1) of the Act.

NOTE: Where an inquiry officer is appointed, the expropriating authority shall state in the Expropriation Notice the date, time and place fixed for an inquiry and comply with section 6 (1) of the Act in sufficient time to provide not more than 21 days between the date that section is complied with and the date fixed for the inquiry.

DATED at this day of, 20..... .

[Name of Expropriating Authority]

[Address]

[Telephone Number]

By:

(Authorized Signatory)

Land Title Act

Application

NATURE OF APPLICATION: Amended Expropriation Notice
(amends D.F. No)
(filing number of Expropriation Notice)

HEREWITH FEES OF: \$.....

FULL NAME, ADDRESS AND TELEPHONE NUMBER of person presenting application:

.....
SIGNATURE OF APPLICANT OR
SOLICITOR OR AUTHORIZED AGENT

NOTE: The above Application shall only appear on the copy of the Amended Expropriation Notice filed in the Land Title Office.

Expropriation Act

Form 4

[am. B.C. Reg. 96/2005, s. 7.]

(Sections 16 (2) and 18 (5))

Amended Expropriation Notice

TO: [Name of Owner(s) affected by amendment]

[Municipal Address]

AND: Registrar

[Name] Land Title Office

[where applicable]

AND: [Inquiry Officer]

[Every participant in an inquiry]

[Approving Authority]

TAKE NOTICE that

1. [Full name, address and telephone number of expropriating authority] (the "expropriating authority") has filed in the [Name] Land Title Office an Expropriation Notice under number [filing number] and intends to alter [or the approving authority has modified] the original Expropriation Notice as follows:

[Describe alteration or modification]

2. The expropriating authority now intends to expropriate land or an interest in land in respect of which [name of owner(s)] is [are] the registered owner[s], the particulars of which are as follows:

[Provide legal description of parcel affected, parcel identifier number and civic address.]

3. The nature of the interest in the land intended to be expropriated is [specify the nature of interest or limited interest; if the interest being expropriated is less than the fee simple estate and is required for a limited period of time (e.g. term of years in a lease), state expiry date].

NOTE: Where an interest less than the fee simple is indicated, the Expropriation Notice must be accompanied by a written instrument in form and substance capable of registration as a charge under the Land Title Act.

4. The work or purpose for which the interest in the land is required is [describe the work or purpose].

5. The approving authority with respect to this expropriation is [full name, address and telephone number of the approving authority].

6. Where an owner is eligible under section 10 of the Expropriation Act to request an inquiry, the minister and the expropriating authority must be served with a Notice of Request for Inquiry (Form 2), a copy of which is attached hereto, within 30 days after the date this Amended Expropriation Notice is served on the owner.

7. Where less than an entire parcel is affected by the expropriation and a fee simple interest is intended to be expropriated, a copy of a reference or explanatory plan must be attached to this Expropriation Notice and the application to file the notice in the Land Title Office must be accompanied by a plan package that complies with section 67 (s) of the Land Title Act.

[or, in the alternative]

[Where less than an entire parcel is affected by the expropriation and an interest less than the fee simple is intended to be expropriated, a copy of a reference or explanatory plan must be attached to this Expropriation Notice and the application to file the notice in the Land Title Office must be accompanied by a plan package that complies with section 67 (s) of the Land Title Act unless a description, satisfactory to the Registrar, of the area to be affected by the expropriation is contained in a written instrument in form and substance capable of registration as a charge under the Land Title Act.]

[include where an inquiry officer has been appointed]

[AND FURTHER TAKE NOTICE that an inquiry officer has been appointed under section 13 (1) of the Expropriation Act for the purposes of an inquiry on [date] at [time], to be held at [place].]

[include where a direction is made under section 23 (2) (c)]

[AND FURTHER TAKE NOTICE that the expropriating authority intends to make a direction to the registrar of land titles under section 23 (2) (c) of the Expropriation Act as follows:

[Describe the charge(s) exempt from cancellation, including type and registration number]]

DATED at this day of, 20..... .

[Name of Expropriating Authority]

By:

(Authorized Signatory)

Expropriation Act

Form 5

(Section 18 (2))

Certificate of Approval of Expropriation

TO: [Name and address of Expropriating Authority]
[Name and address of each owner]

TAKE NOTICE that [Name and address of approving authority] has approved the expropriation contemplated in the [Amended] Expropriation Notice dated [month, day], 20...., registered in the [Name] Land Title Office under number [DF number] and affecting [legal description and parcel identifier number of land expropriated.]

AND FURTHER TAKE NOTICE that the expropriating authority is required under section 20 (1) of the Expropriation Act, within 30 days after approval, to pay to an owner the amount the expropriating authority estimates is or will be payable to that owner as compensation, other than for a business loss referred to in section 34 (3).

DATED at this day of, 20.... .

[Name of Approving Authority]
[Address]
[Telephone Number]
By:
(Authorized Signatory)

Land Title Act

Application

NATURE OF APPLICATION: Cancellation of Expropriation Notice
(cancels D.F. No)

(filing number of Expropriation Notice)

HEREWITH FEES OF: \$.....

FULL NAME, ADDRESS AND TELEPHONE NUMBER of person presenting application:

.....
SIGNATURE OF APPLICANT OR
SOLICITOR OR AUTHORIZED AGENT

Expropriation Act

Form 6

(Section 18 (6))

Cancellation of Expropriation Notice

TO: Registrar,
[Name] Land Title Office

TAKE NOTICE that the Expropriation Notice dated [month, day], 20....., filed in the [Name] Land Title Office under number [filing number] and affecting [legal description and parcel identifier number] is cancelled and the Registrar is authorized to cancel the notice, together with all entries in the register pertaining to it, and [name of expropriating authority] hereby certifies that the approving authority has rejected the expropriation contemplated by the notice.

DATED at this day of, 20..... .

[Name of Expropriating Authority]
By:
(Authorized Signatory)

Land Title Act

Application

NATURE OF APPLICATION: Abandonment of Expropriation
(see D.F. No.....)

(filing number of Expropriation Notice)

HEREWITH FEES OF: \$.....

FULL NAME, ADDRESS AND TELEPHONE NUMBER of person presenting application:

.....
SIGNATURE OF APPLICANT OR
SOLICITOR OR AUTHORIZED AGENT

NOTE: The above Application shall only appear on the copy of the Notice of Abandonment filed in the Land Title Office.

Expropriation Act

Form 7

[am. B.C. Reg. 96/2005, s. 8.]

(Section 19 (2))

Notice of Abandonment

TO: [Name of Owner(s)]
[Municipal Address]
AND: [Name of Approving Authority]
[Address]

AND: Registrar,
[Name] Land Title Office

TAKE NOTICE that [name of expropriating authority] (the "expropriating authority") has abandoned all [part] of the expropriation contemplated in the [Amended] Expropriation Notice dated [month, day], 20...., registered in the [Name] Land Title Office under number [filing number], affecting [legal description and parcel identifier number].

[include only for partial abandonment]

[AND FURTHER TAKE NOTICE that

1. The expropriating authority now intends to expropriate land or an interest in land in respect of which [name of owner(s)] is [are] the registered owner[s], the particulars of which are as follows:

[Provide legal description of parcel affected, parcel identifier number and civic address.]

2. The nature of the interest in the land intended to be expropriated is [specify the nature of interest or limited interest; if the interest being expropriated is less than the fee simple estate and is required for a limited period of time (e.g. term of years in a lease), state expiry date].

NOTE: Where an interest less than the fee simple is indicated, the Expropriation Notice must be accompanied by a written instrument in form and substance capable of registration as a charge under the Land Title Act.

3. The work or purpose for which the interest in the land is required is [describe the work or purpose].

4. The approving authority with respect to this expropriation is [full name, address and telephone number of the approving authority].

5. Where an owner is eligible under section 10 of the Expropriation Act to request an inquiry, the minister and the expropriating authority must be served with a Notice of Request for Inquiry (Form 2), a copy of which is attached hereto, within 30 days after the date this Amended Expropriation Notice is served on the owner.

6. Where less than an entire parcel is affected by the expropriation and a fee simple interest is intended to be expropriated, a copy of a reference or explanatory plan must be attached to this Expropriation Notice and the application to file the notice in the Land Title Office must be accompanied by a plan package that complies with section 67 (s) of the Land Title Act.

[or, in the alternative]

[Where less than an entire parcel is affected by the expropriation and an interest less than the fee simple is intended to be expropriated, a copy of a reference or explanatory plan must be attached to this Expropriation Notice and the application to file the notice in the Land Title Office must be accompanied by a plan package that complies with section 67 (s) of the Land Title Act unless a description, satisfactory to the Registrar, of the area to be affected by the expropriation is contained in a written instrument in form and substance capable of registration as a charge under the Land Title Act.]]

DATED at this day of, 20..... .

[Name of Expropriating Authority]

By:

(Authorized Signatory)

Expropriation Act

Form 8

(Section 20 (1))

Notice of Advance Payment

TO: [Name and address of Owner],

TAKE NOTICE that

1. [Name of expropriating authority] (the "expropriating authority") has on [month, day], 20....., served on you an Expropriation Notice.
2. The expropriating authority has had an appraisal made of the interest in the land expropriated as more particularly described in the Expropriation Notice and a copy of the appraisal and any other report on which the payment is based is attached hereto.
3. Based on such appraisal [and reports] the expropriating authority herewith pays to you [\$ amount of payment], an amount the expropriating authority estimates is or will be payable as compensation in full satisfaction of any claim which you may have with respect to the land expropriated, excepting business losses referred to in section 34 (3) of the Expropriation Act.
4. The amount is determined as follows:
[List those separate items and amounts which make up the amount of payment]
5. For your information, payment and receipt of the amount of compensation set forth in this notice is without prejudice to your right to have the amount determined in the manner provided for in the Expropriation Act.

DATED at this day of, 20..... .

[Name of Expropriating Authority]

[Address]

[Telephone Number]

By:

(Authorized Signatory)

Land Title Act

Application

NATURE OF INTEREST: Fee Simple

Charge

Nature of Charge

FULL NAME of person entitled to vesting who or on whose behalf the application is made:

FULL NAME, ADDRESS AND TELEPHONE NUMBER of person presenting application:

.....

SIGNATURE OF APPLICANT OR
SOLICITOR OR AUTHORIZED AGENT

NOTE: The above Application shall only appear on the copy of the Vesting Notice filed in the Land Title Office.

Expropriation Act

Form 9

(Section 23 (1))

Vesting Notice

TO: Registrar,

[Name] Land Title Office

AND: [Name of Owner(s)]

[Municipal Address]

TAKE NOTICE that the interest described in Expropriation Notice No. [specify filing number] dated [month, day], 20...., [as modified by (specify filing numbers of modification/partial abandonment notices)] respecting the land described below [or in the attached schedule] is vested in [name of expropriating authority] free and clear of all charges other than those referred to in section 23 (2) (a) to (c) of the Expropriation Act and those, if any, described in the Expropriation Notice [as modified].

[Legal description and parcel identifier number].

[include only where a section 23 (5) election is made with respect to a park or public square]

[AND FURTHER TAKE NOTICE that the expropriating authority requests that section 23 (2) of the Expropriation Act apply to the expropriation.

DATED at this day of, 20..... .

[Name of Expropriating Authority]

By:

(Authorized Signatory)

[Provisions relevant to the enactment of this regulation: Expropriation Act, R.S.B.C. 1996, c. 125 — sections 37, 54; Land Title Act, R.S.B.C. 1996, c. 250 — section 385 (2) (c)]