

Land Owner Transparency Registry

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Land Owner
Transparency
Registry

Agenda

- Background
- Scheduled Timing of LOTR
- About the Land Owner Transparency Act (LOTA)
- Registry Searches, Quality Control and Various Applications
- Registry Fees
- Compliance and Enforcement Function
- Questions



Background



Public disclosure of Land Owner Transparency Act (LOTA). **30-point plan for housing affordability in BC:** Action to end hidden ownership, through the creation of a beneficial ownership registry.

May – Sep 2018



Province releases a **White Paper & draft of LOTA** for public review and feedback.

May 2019



Build and operationalize the **Land Owner Transparency Registry (LOTR)**

August 2020

2018 Budget



Public **consultation** and **feedback**.

June 2018



LOTA receives Royal Assent and will be brought into force by regulation.

2019 - 2020



LOTA Amendments (Bill 13) **receive Royal Assent**



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Scheduled Timing of LOTR



About the *Land Owner Transparency Act (LOTA)*

PURPOSE: LOTA introduces mandatory reporting about **indirect ownership** of land (i.e. ownership interests not reflected in the land title register), which will be housed in a searchable public database.

KEY REQUIREMENTS:

- All **transferees** must disclose if they are a **reporting body** as defined in LOTA.
- Transferees that are reporting bodies must further disclose **identifying information** about themselves and about indirect owners of the interest in land. These indirect owners are called **interest holders** in LOTA.
- Disclosure obligations are ongoing – i.e. a reporting body must file updated information each time its interest holders change, even if there is no change in the legal ownership.
- Information disclosed under LOTA will be maintained in a searchable database that will be administered by the LTSA.
- LOTA filings and searches will have mandatory associated fees.

About the *Land Owner Transparency Act (LOTA)*

WHO ARE REPORTING BODIES?

LOTA describes 3 types of reporting bodies – each is a legal entity (or relationship) capable of owning land and for which there are distinct legal and beneficial owners:

RELEVANT CORPORATIONS	RELEVANT TRUSTS	RELEVANT PARTNERSHIPS
<p>All private corporations and LLCs, unless exempt by Schedule 1 or by regulation.</p> <p><u>Exemption examples:</u></p> <ul style="list-style-type: none">• Strata corporations• Government bodies• Local governments• Schools	<p>All express (intentional) trusts, unless exempt by Schedule 2 or by regulation</p> <p>NOTE: bare trusts (aka nominees) are relevant trusts</p> <p><u>Exemption examples:</u></p> <ul style="list-style-type: none">• Testamentary trusts• Charitable trusts• PGT	<p>All partnerships, unless exempt by regulation.</p>



About the *Land Owner Transparency Act (LOTA)*

WHO ARE INTEREST HOLDERS?

REPORTING BODY	INTEREST HOLDER	CHARACTERISTICS
Relevant Trust	Beneficial Owner	Any of: <ul style="list-style-type: none">• A beneficial interest in the interest in land;• Power to revoke the trust and receive the interest in land;• A corporate interest holder of a corporation that has a beneficial interest in the land or the power to revoke the trust and receive the interest in land; or• A prescribed interest
Relevant Corporation	Corporate Interest Holder	Any of: <ul style="list-style-type: none">• Owns or controls, alone or with others, directly or indirectly, 10+% of the equity (typically shares) or voting rights;• Has the right, directly or indirectly, to appoint or remove a majority of the directors; or• A prescribed interest
Relevant Partnership	Partnership Interest Holder	Any of: <ul style="list-style-type: none">• A partner in the relevant partnership;• A corporate interest holder of a corporation who is a partner in a relevant partnership; or• A prescribed interest



About the *Land Owner Transparency Act (LOTA)*

INTERESTS IN LAND REQUIRING LOTA DISCLOSURE

1. Estate in Fee Simple (Ownership)

2. Life Estate

3. Right to Occupy under Lease
(Term >10 years)

4. Right to Occupy or Require Transfer under
Agreement for Sale

5. Prescribed Right (by Regulation)

EXEMPTED LANDS:

- Treaty lands
- Recognized self-governing First Nations lands (Sechelt, Nisga'a, Maa-nulth, Tla'amin)
- Reserve lands
- Prescribed lands



About the *Land Owner Transparency Act (LOTA)*

WHEN ARE LOTA DISCLOSURES REQUIRED?

TRIGGERING EVENT	DISCLOSURE REQUIRED
Registration	On application to register a legal interest in land, a two-tiered obligation is triggered: <ol style="list-style-type: none">1. Each transferee must file a transparency declaration indicating if they are a reporting body and, if so, which type;2. A reporting body must also file a transparency report disclosing specified information about each interest holder.
Pre-Existing Owner(s)	Reporting bodies that own an interest in land when LOTA comes into force will have to file a transparency report by a prescribed date (one-time obligation).
Change in Interest Holder(s)	Each time the interest holder(s) in a reporting body change, the reporting body must file an updated transparency report .
Registered Owner ceases to be a Reporting Body	Notice to Administrator required if corporation, trust or partnership ceases to be relevant corporation, relevant trust or relevant partnership.

NOTE: Reporting bodies may also choose to file a new transparency report at any other time to complete or correct information in a previously filed transparency report.

About the *Land Owner Transparency Act (LOTA)*

MANNER OF FILING – ROLE OF REGISTRAR

Transparency declarations and transparency reports are **filed** with the LOTR Administrator by **submission to** the Registrar of Land Titles.

- Since submission via Land Title Office (LTO), *Land Title Act* filing provisions apply (i.e. Part 10.1 applies)
- Where LOTA documents are submitted with an application to register an interest in land, they must be **submitted together with the LTO application** (i.e. while they need not be in the same package, the two sets of filings must be submitted concurrently)
- The Registrar **must refuse to accept** an application to register an interest in land **if it is not accompanied by LOTA filing(s)**, namely:
 - Transparency declaration in all cases
 - Transparency declaration and transparency report if the transparency declaration indicates the transferee is a reporting body
- Electronically submitted documents have similar requirements to those under the *Property Transfer Tax Act*

About the *Land Owner Transparency Act (LOTA)*

MANNER OF FILING – ROLE OF REGISTRAR (cont.)

The Registrar’s role is limited to confirming that the transparency declaration and transparency report have been properly **certified, signed and submitted** in accordance with LOTA.

TERM	MEANING
Certification	Confirmation that the transparency declaration and/or transparency report is “correct and complete” by a person with knowledge of the facts contained in the document and authority to sign on behalf of the transferee or reporting body.
Signed	<ul style="list-style-type: none">• Electronic transparency declarations and reports are signed when the electronic signature of a subscriber has been incorporated (the subscriber must confirm that the true copy of the document has been certified before applying their signature).• Manual transparency declarations and reports will be wet-ink signed.
Submitted	Refers to the manner in which LOTA documents are filed.

About the *Land Owner Transparency Act (LOTA)*

WHAT INFORMATION IS IN A TRANSPARENCY REPORT?

A reporting body must disclose the **six categories of information in a transparency report**:

1. Primary identification information about the **reporting body**; varies by type of reporting body:

ENTITY	PRIMARY IDENTIFICATION INFORMATION
Individual (e.g. trustee or settlor of a relevant trust)	<ul style="list-style-type: none">• Full Name• Citizenship or permanent residence• City and Province/Country of residence (if in Canada or not)• Incorporation number and jurisdiction
Corporation or LLC	<ul style="list-style-type: none">• Name• Registered office address and head office address, if applicable• Jurisdiction(s) of incorporation
Partnership	<ul style="list-style-type: none">• Registered business name, if any• Type of partnership (e.g. LP, general)• Registered and/or head office address, as applicable• Jurisdiction of laws which govern the partnership



About the *Land Owner Transparency Act (LOTA)*

WHAT INFORMATION IS IN A TRANSPARENCY REPORT? (cont.)

2. Primary identification information plus the following about each interest holder:
 - Date of birth
 - Address
 - Social insurance number
 - Tax number
 - Residence for tax purposes
 - Description of interest held in the reporting body (e.g. owns 25% of voting shares)
3. Specific information based on the type of reporting body:
 - Corporation: business number, incorporation number
 - Trust: information about the settlor (s. 19 or 21 of LOTA), Land Title Act trust instrument number
 - Partnership
4. Parcel Identifier (PID) assigned to the land for which the report relates.
5. Name and contact information of person signing (certifying) the report.
6. Prescribed information, if any.

About the *Land Owner Transparency Act (LOTA)*

DUE DILIGENCE IN PREPARATION OF REPORT

- Reporting bodies must take ‘**reasonable steps**’ to obtain and confirm the accuracy of all required information in a transparency report:
 - Interest holders have a reciprocal obligation to provide requested information (offence to not comply)
- If unable to obtain all required information, the reporting body must provide a **summary of information** that was obtained and **all steps taken** to obtain this.
- A Reporting body that **becomes aware an interest holder may be incapable of managing their affairs** must take reasonable steps to determine if this is so, and disclose this in the report.
- Reporting body must take reasonable steps to notify each interest holder identified about the transparency report, **before it is filed.**

Registry Searches, Quality Control and Various Applications

- Public can obtain only primary identification information about reporting bodies, interest holders and settlors by searching:
 - By Parcel Identifier: who are reporting bodies, interest holders or settlors?
 - By Name: what interests in land are held by reporting bodies, interest holders or settlors?
- Five entities are entitled to search all information in transparency declarations and transparency reports, and to view the reports themselves:
 1. Enforcement officer
 2. Ministry of Finance employees
 3. Taxing authority employees
 4. Law enforcement officers
 5. Regulators (Securities Commission, FICOM, FINTRAC, Law Society)



Registry Searches, Quality Control and Various Applications

APPLICATIONS TO REVISE OR VET INFORMATION

LOTA creates various mechanisms to correct or suppress sensitive information from public search:

1. **Application to Omit:** a person may apply to have their Primary Identification Information removed from public search on reasonable belief of threat to safety to themselves or to a member of their household.
 - Must provide evidence to support the application
 - LOTR Administrator may require supporting records or other information
 - LOTR Administrator must omit the information pending review and determination
2. **Application to Correct or Change Information:** a person may apply to request that corrections be made to a filed transparency report or to publicly accessible information to correct an incomplete or inaccurate information.
 - Must first make request to the reporting body to revise the information
 - Must provide evidence to support the application
 - LOTR Administrator may require supporting records or other information



Registry Searches, Quality Control and Various Applications

OTHER QUALITY CONTROL MECHANISMS

3. **LOTR Administrator Initiative:** the Administrator, on their own initiative may:
 - Omit or obscure information from public accessibility if the Administrator considers there is a risk to the health or safety of an individual
 - Annotate a filed record in a way that does not conceal original content
 - Make changes to reported or publicly accessible information
4. **Enforcement Officer Direction:** where, on the conclusion of an inspection, the Enforcement Officer has determined that filed information is incomplete or inaccurate, they can direct the Administrator to:
 - Omit or obscure information that is publicly accessible
 - Annotate a filed transparency report
 - Make changes to reported or publicly accessible information

Registry Fees

- The LTSA has broad authority to charge fees under LOTA. Fees will be charged for:

REGISTRY SERVICE	FEE
Filing transparency declaration	\$5.00
Filing transparency report	\$35.00
Inspection, search, copy or extract of reported information	\$5.00
Application to omit information if health or safety at risk	\$30.00
Application to correct or change information	\$150.00

- Fees are paid to the LTSA **at the time** and **in the manner** required by the LOTR Administrator.
- LOTR fees are set by the LTSA Board of Directors and must be reflected in the LTSA bylaws.

Compliance and Enforcement Function

Compliance and enforcement is a government function, with no role played by the LTSA.

- In particular, the Minister of Finance may designate an **Enforcement Officer** to be responsible for general enforcement of the Act and regulations.
- Enforcement Officer duties include:
 - Conducting inspections (including obtaining warrants, searching premises)
 - Making rulings/determinations related to compliance
 - Issuing penalties (to the greater of \$25,000 or 5% assessed value for an individual; to the greater of \$50,000 or 5% for a non-individual)
- Administrative infractions are also offences and may also be prosecuted via these channels
- Appointment of an Enforcement Officer is not mandatory; currently unknown as to when or for whom that appointment will be made.

Thank you!



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