

2018 MACO Annual Conference

February 15, 2018

Torrens: Back to Basics

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I. BACKGROUND

Torrens is the name of the person who created this system of land registration and record keeping. Torrens land and abstract land have different rules.

The Torrens title system is a method of registering titles to real estate. The system is used in the British Commonwealth countries, including Canada, and in Europe but has not been widely adopted in the United States. Minnesota adopted the Torrens title system in 1901. For the most part, it is a voluntary system in which you opt-in for different reasons.

The system is named after Sir Robert Richard Torrens, who introduced it in South Australia in 1858 and later lobbied for its adoption in other parts of the country. He wrote several books on the subject, arguing that his system simplified the transfer of real property and eliminated the need for repeated examinations of land titles.

Under the traditional system of transferring, or conveying, land, the history of the property in question must be examined to ensure that the seller can convey marketable title to the purchaser. When property is sold, a deed is filed and recorded with the county land office. The deed contains the names of the sellers and the buyers, the ownership relationship of the buyers (*for example*, joint tenants or tenants in common), and the legal description of the property. This information is abstracted from each deed and recorded in a document called an abstract of title. An attorney or a real estate title examiner inspects each entry to determine that good title has been passed with each transaction. If any problems exist with the title, they must be remedied before the purchaser may obtain marketable title.

The Torrens system does away with this “title examination” process. A court or bureau of registration operates the system, with an examiner of titles and a registrar as the key officers. The owner of a piece of abstract land files an application with the district court to have the land registered. The examiner of titles reviews the abstract of title and issues a report to the court. Once the court has adjudicated the interests of the owners and the encumbrancers, the registrar issues a certificate of title to the owner. This certificate is ordinarily conclusive as to the person’s rights in the property.

When the owner sells the property, the certificate alone is the title, just like an automobile title. When the deed to a new buyer gets recorded, the certificate of title gets cancelled and a new one gets issued to the buyer. There is (usually) no need to go back and look at the cancelled certificates of title.

II. DEFINITIONS

Abstract Property—also known as unregistered land. Before 1901, all real property in Minnesota was abstract property. Under the abstract system, documents evidencing marketable title may be found in recorded documents or by material outside the recording system.

Abstract of Title—a summary of the material parts of the documents recorded against a particular piece of land. Starts at the patent from the United States government and continues to present day.

Certificate of Title—the document that identifies the owners and encumbrancers of a specific piece of registered land. (Think: automobile title.) The certificate of title is not “evidence” of title. The certificate of title is *the* title to the real estate. The certificate of title shall contain the name and residence of the owner, a legal description, a description of the estate of the owner (for example “joint tenants”), and shall by memorial contain a description of all encumbrances, liens and interests which affect the title.

Certificate of Possessory Title—it looks like a certificate of title, however this property was registered under Minnesota Statutes Chapter 508A. This is an administrative registration procedure; it is not a judicial proceeding. So, title defects cannot be solved using this process, and if there are title defects, this process is not available. A possessory estate in land is a fee simple estate held by an owner who (1) has been found on examination by the examiner of titles pursuant to section 508A.13 to be the record owner of the land described; and (2) has satisfied the examiner of titles that the owner is in actual or constructive possession of the land. A successful CPT land registration ends with the issuance of a certificate of possessory title, which will “ripen” into a certificate of title after five years.

Common Interest Community Certificate of Title—the CICCT. Created for condominiums and planned communities, and it is the “extra” certificate of title that goes along with the certificate of title created for each unit. What gets filed on the CICCT are the documents that affect all the units, for example the CIC Declaration and CIC Plat, the easement granted by the association to the cable company, the association bylaws, and the amendment to the CIC Declaration. Each unit certificate of title contains a reference to the CICCT, and both together make up the title for the unit.

County Recorder—the title of the person in charge of the unregistered (abstract) recording system in each county.

Examiner of Titles—an attorney appointed by the judges of the district court to be an examiner of titles and legal adviser to the registrar of titles. Issues reports to the court in initial registration proceedings and in proceedings subsequent to initial registration. Acts as fact finder for the district court and recommends orders to be entered by the court. Provides legal advice to the registrar of titles and assists parties in transactional situations.

Examiner’s Directive—a written directive issued by the examiner of titles, directing the registrar of titles to take some action.

Exchange Certificate—the owner of registered land may request that the registrar of titles exchange her certificate of title for a new one, free from memorials of interests that

no longer affect the land. And, land on two or more certificates of title can be combined onto one new certificate of title.

Initial Registration Proceeding—will transfer a title from the recording act system (abstract title) to the registration system (Torrens title). The proceeding is in the nature of a suit against all persons, both known and unknown, who could possibly assert an adverse right. The proceeding requires the participation of the examiner of titles in the county where the land is located. At the end, the court issues an order and decree of registration, and when filed with the registrar of titles, a certificate of title gets issued.

Interlocutory Order—in either an initial registration proceeding, or a proceeding subsequent, it is the court order directing the surveyor to go out and set the judicial landmarks. An interlocutory order does not finally determine a cause of action but only decides some intervening matter pertaining to the cause, and requires further steps. After the judicial landmarks are set, the surveyor prepares a “plat of survey” showing the location of the judicial landmarks. This order is not filed in the land records.

Judicial Landmark (JLM)—a tool available for marking court-established boundary lines. Under Minnesota Statutes Section 559.25, judicial landmarks must be stone or iron. The intent is that they are durable and able to be located by others.

Memorials—the list of encumbrances that affect the title, identified by document number, document type, date of filing, and a “running in favor of” column.

Proceeding Subsequent to Initial Registration—a court action seeking some change in the title to registered land. The proceeding requires the participation of the examiner of titles in the county where the land is located. At the end, the court issues an order directing the registrar of titles to take some action.

Recital—on a certificate of title, these are the encumbrances located below the legal description and above the memorials.

Registered Land—the more “sophisticated” name for Torrens land.

Registrar of Titles—the title of the person in charge of the registered land system in each county.

Torrens—the last name of the person who first implemented this system of title registration. Sir Robert Richard Torrens implemented the Torrens system of title registration in South Australia as early as the 1850’s. The Minnesota legislature adopted this system in 1901.

Unregistered Land—the more “sophisticated” name for abstract property.

Miscellaneous notes based on the definitions.

- Land on a certificate of title can be combined with land on a certificate of possessory title.
- There is no practical difference between a recital and a memorial, meaning one is of no greater value than the other.
- In Minnesota, business entities must be represented by a licensed attorney when appearing in district court. *Nicollet Restoration, Inc., v. Turnham*, 486 N.W.2d 753 (Minn. 1992).
- An examiner's directive is for situations that do not require a factual determination. A proceeding subsequent is required for situations that require the court to make a factual determination.
- Think: county recorder/unregistered land/abstract land
- Think: registrar of titles/registered land/Torrens
- The county recorder and registrar of titles are physically the same person, however the records are indexed differently.
- Documents recorded in abstract are delivered to the county recorder. Documents recorded in Torrens are delivered to the registrar of titles.
- Think of all the land in the county as pieces of a puzzle. The puzzle pieces have to fit together. When the owner wants to register the title, the court does not want to create a gap or overlap with adjoining Torrens land. So the legal description in the new registration may be changed to take into account what has already been registered. Since the court will ultimately adjudicate that the applicant owns this land with the new description, this is ok to do.

III. BENEFITS OF TORRENS TITLE

- Protection from adverse possession; you cannot adversely possess Torrens property. Minn. Stat. § 508.02.
- You can vertically divide Torrens property by use of a three-dimensional registered land survey. Minn. Stat. § 508.47, Subd. 4.
- Judicially determine a boundary, once and for all. Just registering the title may not solve a boundary dispute. Setting judicial landmarks is the next step. Minn. Stat. § 508.671.

- Judgments do not affect the land unless specifically memorialized on the certificate of title. Minn. Stat. § 508.63. One exception: federal court judgment liens in favor of the United States. Search the records of the county recorder for these judgments.
- The registrar of titles acts as a gate-keeper, making sure that documents do not get filed against the wrong property.
- Title examination is quicker. In a perfect world, when examining title to Torrens land, the title examiner should not have to look behind the current certificate of title.

IV. INITIAL REGISTRATION OF TITLE

An action to register title under Minnesota Statutes Chapter 508 is known as an *initial registration proceeding*, and the end result is the transfer of the title from the recording act system (abstract title) to the registration system (Torrens title). The proceeding is in the nature of a suit to quiet title against all persons, both known and unknown, who could possibly assert an adverse right. The following sequence of events occurs in registration proceedings in district court:

- The proceedings begin by the filing of an *application*.
- The applicant then files an *abstract* of title.
- The examiner of titles issues a *report* listing the persons who should be joined as defendants in the matter.
- A *land title summons* is issued, published and served on the defendants.
- A hearing is held, after which the court issues its *order and decree of registration*.
- A certified copy of the order and decree of registration is filed with the registrar of titles who issues a *certificate of title*.

Minnesota Statutes Chapter 508 and Rule 201 et. seq. of the General Rules of Practice for the District Courts are applicable to initial registration proceedings (and proceedings subsequent to initial registration).

A. Effect of the decree of registration

- **Short statute of limitations.** A decree of registration cannot be adjudged invalid or set aside unless an action to contest the decree is started within six months from the date of the decree. Minn. Stat. § 508.28.
- **Basically binds the world.** Every decree of registration shall bind the land described in it, forever quiet the title to it, and be forever binding and conclusive upon all persons, regardless of whether they were mentioned in the

application or in the report of examiner or whether they possessed an interest in the land not referred to in the application or in the report of the examiner, whether they were mentioned by name in the summons, or included in the phrase, “all other persons or parties unknown claiming any right, title, estate, lien, or interest in the real estate described in the application herein.” Minn. Stat. § 508.22.

- **A decree of registration cannot be vacated for excusable neglect** under Minn. R. Civ. P. 60.02, because rule 60.02 is inconsistent with certain provisions of the Torrens Act. *In re Brainerd Nat'l Bank*, 383 N.W.2d 284, 286-87 (Minn. 1986); *see also Murphy v. Borgen*, 148 Minn. 375, 182 N.W. 449 (1921).

B. These benefits come with a cost

- **Time.** In Hennepin County, for example, the examiner of titles and deputy examiners of title are full-time county employees. They are the legal adviser to the registrar of titles – they have only one client. And, they are officers of the court who oversee the initial registration process, and the proceedings subsequent to initial registration. This format is found in Ramsey, St. Louis, and Anoka Counties. In an initial registration case, several months may pass between the time when the application is filed and the report of examiner is issued. This delay is due in part to the preparation of the abstract of title and the surveyor's inspection report. In all other counties, the examiner of titles position is part-time. So, the examiner has a private law practice that requires attention, too. This examiner has more than one master.
- **Money.** In Hennepin, Ramsey, St. Louis, and Anoka Counties, the examiner's compensation is “fixed and determined by the court and paid in the same manner as the compensation of other county employees is paid.” Minn. Stat. § 508.12. In all counties having fewer than 75,000 inhabitants, and in Stearns, Dakota, Scott, Wright, and Olmsted Counties, the fees and compensation shall be paid by the person applying to have the person's title registered. *Id.* The fees charged for examining title can vary and, depending on the case, be expensive.
- **Everything but the kitchen sink.** The in-depth nature of a registration proceeding may result in unexpected issues that require resolution. For example, under Minn. Stat. § 508.14, the county surveyor shall inspect the land being registered and file a report with the court administrator. This “Inspection Report” will include the surveyor's observations regarding the location of all structures, fences, and other improvements thereon. *Id.* The examiner may conclude that the owners, encumbrancers, and occupants of adjoining lands should be made defendants in order to adjudicate any rights they may have to the land being registered. This would typically not be required in an action to determine adverse claims.

V. SEVEN STANDARD EXCEPTIONS TO TORRENS TITLE

Torrens registration provides a means to determine the state of title through the inspection of a single document, the certificate of title, except for seven specified interests enumerated in Minn. Stat. § 508.25. *Hersh Properties, LLC v. McDonald's Corporation*, 588 N.W.2d 728, 733 (Minn. 1999). Under Section 508.25, every person receiving a certificate of title, in accordance with a decree of registration, shall hold the land subject to the following rights or encumbrances against it, if any:

- (1) liens, claims, or rights arising or existing under the laws or the Constitution of the United States, which this state cannot require to appear of record;
- (2) the lien of any real property tax or special assessment;
- (3) any lease for a period not exceeding three years where there is actual occupation of the premises thereunder;
- (4) all rights in public highways upon the land;
- (5) the right of appeal, or right to appear and contest the application, petition, or other proceeding affecting the title, as is allowed by Chapter 508;
- (6) the rights of any person in possession under deed or contract for deed from the owner of the certificate of title; and
- (7) any outstanding mechanics lien rights which may exist under Minn. Stat. §§ 514.01 to 514.17.

The first five exceptions were part of the original Torrens Act adopted in 1901; Act of Apr. 11, 1901, ch. 237, § 30, 1901 Minn. Laws 348, codified at R.L. § 3370–403 (1905). In 1931, the legislature added exception clause (6). 1931 Minn. Laws ch. 357, § 1. In 1983, the legislature added exception clause (7) and also added the words “real property” to exception clause (2). 1983 Minn. Laws. ch. 92, § 8.

“The purpose of the Torrens law is to establish an indefeasible title free from any and all rights or claims not registered with the registrar of titles, *with certain unimportant exceptions, * * **” *In re Juran*, 178 Minn. 55, 58, 226 N.W. 201 (1929) (emphasis added). Those certain unimportant exceptions would have been the first five interests shown above. Ironically, the effect of the Supreme Court’s decision in *Juran*, based on the specific facts of the case, was overturned by the legislature in 1931 by the addition of exception clause (6): “the rights of any person in possession under deed or contract for deed from the owner of the certificate of title.” So, the exceptions must have some importance, even if they affect all Torrens land in Minnesota.

VI. REGISTRATION OF TITLE WITHOUT A COURT PROCEEDING UNDER CHAPTER 508A.

Minnesota Statutes Chapter 508A provides a voluntary procedure for registration of certain possessory estates in land with certainty, at reasonable cost and speed, and without the necessity for the initial adjudication required by Chapter 508. Minn. Stat. § 508A.01, Subd. 2. This non-judicial procedure is appropriate for “uncontested titles” — because no adjudication is available, title defects cannot be cured by this procedure. The result is a certificate of possessory title (CPT). Five years after the date of the first CPT, the registrar of titles, upon the filing of any instrument transferring title, shall issue a certificate of title and cancel the CPT. *Id.*

The term “possessory estate in land” means a fee simple estate held by an owner who has been found by the examiner of titles to be the record owner of the land, and has satisfied the examiner of titles that the owner is in actual or constructive possession of the land. Minn. Stat. § 508A.01, Subd. 3. Property that is registered under Chapter 508A is subject to the rights of persons in possession, if any, and rights which would be disclosed by a survey. Minn. Stat. § 508A.02, Subd. 1.

Certificates of possessory title are available in those counties in which the county board has passed a resolution authorizing them. Minn. Stat. § 508A.01, Subd. 1.

VII. PROCEEDINGS SUBSEQUENT TO INITIAL REGISTRATION

All subsequent proceedings relate to some change desired in the title as currently registered. And there is only one judicial process available. In *Phillips v. Dolphin*, 776 N.W.2d 755, 758 (Minn. App. 2009), the court of appeals held that “[w]hen the Torrens Act specifies the procedure necessary to take some action regarding registered land, parties and district courts must follow this procedure.” The court noted that “[t]he Torrens system is designed to conclusively establish matters of ownership. The title examiner participates in proceedings, and all interested parties, including mortgagees, are notified of proceedings and allowed to participate. This process ensures compliance with due process and statutory requirements.” *Id.* at 759. The following sequence of events occurs in *proceedings subsequent to initial registration* in district court:

- The proceedings begin by the filing of a *petition*.
- The examiner of titles issues a *report* listing the persons who should be given notice of the proceeding.
- An *order to show cause* is issued and served on the persons named in the examiner’s report.
- A *hearing* is held, after which the court issues its order.
- A certified copy of the order is filed with the *registrar*.

VIII. WHO IS THE EXAMINER OF TITLES AND WHAT IS HER ROLE?

Minn. Stat. § 508.12, Subd. 1, requires the judges of the district court to appoint a competent attorney in each county within their judicial district to be an examiner of titles and legal adviser to the registrar. The judges may also appoint attorneys to serve as deputy examiners. The examiner of titles and deputy examiners shall hold office subject to the will and discretion of the district court by whom appointed.

All applications to register title to land are referred to the examiner of titles without further order of the district court. *Id.* Immediately after the filing of the abstract of title, the court administrator shall refer the file to the examiner of titles, who shall proceed to examine into the title of the land described in the application, and into the truth of all matters set forth therein. Minn. Stat. § 508.13. The examiner shall file in the case a full report thereof, together with the examiner's opinion upon the title. An examiner shall have full power to administer oaths and examine witnesses concerning any matter involved in the examiner's investigation of titles. *Id.*

Examiners shall, upon the request of the registrar of titles, advise the registrar upon any act or duty pertaining to the conduct of the office (of the registrar of titles), or prepare the form of any memorial to be made or entered by the registrar. *Id.*

In all cases where, under the provisions of Minnesota Statutes Chapter 508, application is made to the court for any order or decree, the court may refer the matter to the examiner of titles for hearing and report, just like for an initial registration. *Id.*

If an answer is filed, in an initial registration or a proceeding subsequent, the case shall be tried by the court in like manner as an ordinary civil action. Minn. Stat. § 508.20. The court may refer the case, or any part thereof, to one of the examiners to hear the parties and their evidence, and make a report to the court. *Id.*

So, the examiner of titles is an attorney who wears two hats. She acts as legal adviser to the registrar of titles, and assists parties in transactional situations. And, she acts as a fact finder for the district court, and then recommends orders to be entered by the court.

IX. WHAT SHOULD THE REGISTRAR'S STAFF DO WHEN A DEED IS PRESENTED FOR RECORDING?

The registrar of titles staff act as gate keepers; the county recorder staff do not. When a document gets presented for filing with the registrar of titles, the staff person finds the current certificate of title for the property, and checks to see that the grantor has an interest to convey (*e.g.*, a deed for the fee title) or encumber (*e.g.*, a mortgage for a home equity line of credit) or assign (*e.g.*, an assignment of a mortgage from one bank to another). If the grantor does not have an interest memorialized on the certificate of title, the registrar of titles will not accept the document for filing. If the legal description on the document does not contain some land described on the certificate of title, the registrar of

titles will not accept the document for filing. So, the following stray deeds are avoided in the Torrens system: conveyance of a stranger into the chain of title (see *Title Standard* 14) and the conveyance from one stranger to another (see *Title Standard* 16). The registrar of titles will accept for recording a document executed by a party having a registered interest and joined in by a party with no registered interest (see *Title Standard* 15). But the registrar and the public can ignore the joinder, under Minn. Stat. § 508.48(a):

Neither the reference in a registered instrument to an unregistered instrument or interest nor the joinder in a registered instrument by a party or parties with no registered interest shall constitute notice, either actual or constructive, of an unregistered interest.

The registrar of titles keeps track of all the certificates of title. Minn. Stat. § 508.34 states:

The registrar shall keep a book known as the “Register of Titles,” and shall enter all first and subsequent certificates of title by binding or entering them therein in the order of their numbers, beginning with the number one. * * * Each certificate shall constitute a separate page of such book, and all memorials and notations that may be entered by the registrar shall be entered by the registrar upon the page whereon the latest certificate of title is entered.

Instruments affecting the title to land, filed with the registrar, shall be numbered by the registrar consecutively, to the extent practicable. Minn. Stat. § 508.38. When a deed is accepted for filing, the registrar of titles gives the deed the next available document number, and then issues a new certificate of title, with the next available number for certificates of title, and then marks the old certificate of title “canceled.” Minn. Stat. § 508.52.

The registrar of titles shall also keep a tract index, for each parcel of land, and also a grantors’ reception index and a grantees’ reception index. Minn. Stat. § 508.37, Subd. 1a. These indexes are also required to be kept by the county recorder for abstract property, see Minn. Stat. §§ 386.03, 386.04, and 386.05. But usually, for Torrens property, all you care about is the current certificate of title, which shows the current owner, a description of the land, and the current encumbrances.

X. WORK THE SYSTEM

- A. Appeal from registrar’s decisions.** If the registrar rejects a document for filing, the filer may refer the matter to the examiner of titles for review. The examiner of titles may approve the document for filing and, upon approval, the registrar shall accept the document for filing. Minn. Stat. § 508.321.
- B. File a claim of unregistered interest.** If the filer strikes out with the registrar, and with the examiner, the filer can file a verified claim of unregistered interest.

Minn. Stat. § 508.70. For example, the filer only has a copy of a mortgage, not the original. The filer pays the mortgage registry tax, prepares the claim, attaches a copy of the mortgage to the claim, and files it. Some registrars may want the examiner of titles to approve the claim for filing. The claim is just a claim—the filer still needs to prove up the validity of the document in a proceeding subsequent to initial registration.

- C. Registrar’s correction document.** The registrar of titles may correct clerical errors or omissions made by the registrar’s staff in producing certificates of title. Minn. Stat. § 508.71, Subd. 1a. Examples include the misspelling of names, the failure to show ownership as joint tenants, typographical errors in the legal description, and carrying forward memorials of interests that have terminated.
- D. Directive by examiner.** At the request of a registered owner or other person in interest, the examiner of titles by a written directive may order (1) the amendment or cancellation of a memorial relating to racial restrictions, rights which are barred by a statute or rights which have expired by the terms of the instrument creating the rights, or (2) upon the submission of evidence satisfactory to the examiner, the correction of the name or designation of a party who is a registered owner or who has an interest registered on a certificate of title. Minn. Stat. § 508.71, Subd. 3.
- E. Exchange certificate.** The owner or agent of the owner of registered land may request the registrar of titles to issue a new certificate of title free from the memorials of all interests which have terminated. Minn. Stat. § 508.421, Subd. 1a. Or, if the owner holds separate certificates of title for different parcels of land, the owner can request that the registrar combine the two certificates of title into one new certificate. Minn. Stat. § 508.421, Subd. 2.

XI. TRANSACTIONS INVOLVING REGISTERED LAND

Certain documents, by various statutes, require the examiner’s approval for filing with the registrar. The registrar is typically looking for “the written certification of the examiner of titles as to the legal sufficiency of the documents presented for filing for the purpose of issuance of a new certificate.” Minn. Stat. §§ 508.59, 508.69. The types of documents include:

- Judgment or decree (usually in the context of a marriage dissolution) where the document is being used to divest a fee owner of his or her interest. (Minn. Stat. § 508.59)
- Trustee’s conveyance, in the context of an inter vivos trust or a testamentary trust. (Minn. Stat. § 508.62)
- All probate transfers, including deed of sale, deed of distribution, decree of distribution, decree of descent, summary assignment.

(Minn. Stat. § 508.69)

- Acquiring title by action, usually a mortgage foreclosure by action.
(Minn. Stat. § 508.67, Subd. 2)
- Eminent Domain, but only for a fee taking.
(Minn. Stat. § 508.73, Subd. 1)

XII. DIFFERENT RULES FOR TORRENS LAND

A. Vacated streets.

“Upon the filing of a certified copy of a resolution or ordinance of a city vacating an adjoining street or alley that was dedicated to the public in a plat, a registered owner is entitled to have added to the legal description on the certificate of title that part of the vacated street or alley that accrues to it, provided the vacation occurred after the land was originally registered. The vacated street or alley may be added to the certificate of title by order of the district court or by a written directive from the examiner of titles.” Minn. Stat. § 508.73, Subd. 2.

1. The city vacates the street.
2. The city council resolution gets filed with the registrar of titles and memorialized on the certificate of title.
3. A request is made to the examiner of titles to issue a directive adding the vacated street to the legal description.
4. The description is written as a stand-alone parcel.

We don't say:

Lot 1, Block 1, Blackacre, together with that part of Smith Avenue that accrues to said lot by reason of vacation.

Instead, we say:

Lot 1, Block 1, Blackacre.

That part of vacated Smith Avenue, dedicated in the plat of Blackacre, lying northerly of the centerline of said avenue, and between the southerly extensions of the east line and of the west line of Lot 1, Block 1, said plat.

5. A court order is required if we need to adjudicate who gets the vacated street. For example, on a cul-de-sac.

B. A condominium cannot include both abstract and Torrens land.

This is a recording/indexing issue. The condominium unit, which is essentially a box of air, cannot be both abstract and Torrens. You are forced to file the condominium declaration, the deed, and the mortgage, in only one spot. It can be all abstract, or all Torrens. It cannot be both. This requirement comes from Rule 222 of the Minnesota General Rules of Practice for the District Courts.

C. A planned community, using a condominium-style plat, can include both abstract and Torrens land.

A planned community can include both abstract and Torrens land. If the planned community is single family homes, and the CIC plat is the subdivision plat, you know how to handle this. However, if the CIC plat is a condominium-style plat, the recording of documents can get messy.

You may own Unit 1, CIC No. 1000, The Lofts on Main Street, a planned community located in Hennepin County.

But your certificate of title reads as follows:

That part of Unit 1, CIC No. 1000, The Lofts on Main Street, a planned community located in Hennepin County, which lies within Lot 1, Block 1, Blackacre.

And every document affecting that unit must be recorded in both offices.

D. All condominiums affecting Torrens land must be approved by the examiner of titles before recording.

This requirement is not found in the Minnesota Common Interest Ownership Act, Minnesota Statutes Chapter 515B. It is found in the Torrens Act, Minn. Stat. § 508.351, Subd. 1:

Prior to recording with the registrar of titles of a declaration or bylaws of a condominium, or an amendment to the declaration or bylaws, or a supplemental declaration pursuant to section 515B.2-111, a determination must be made by an order of the court in a proceeding subsequent to initial registration or by a written directive of the examiner of titles that the documents comply with the requirements of the applicable condominium statute.

The examiner of titles issues a directive telling the registrar of titles where to file the condominium declaration and CIC plat, and what to move over to the common interest community certificate of title (CICCT).

E. Eminent Domain.

If the land of the registered owner is taken in fee, a new certificate of title may not be entered except by order of the district court or upon the written certification of the examiner of titles as to the legal sufficiency of the final certificate or quick-take order. This does not apply to easements. If an easement is the interest condemned by the city/county/state, then the final certificate or quick-take order gets memorialized on the current certificate of title.

For a fee taking:

1. The condemning authority goes through all the regular steps to condemn the land, just as if the land were abstract.
2. Record a certified copy of the document used to transfer title (either the quick-take order or the final certificate).
3. Request that the examiner of titles certify that the eminent domain proceedings were legally sufficient to transfer title, and direct the registrar of titles to cancel the current certificate and issue a new one to the condemning authority for that part of the land taken in fee, with a “residue certificate” issued to the fee owner for that part not taken in fee.

F. Recording a plat executed by the trustee of a revocable trust.

Facts: The property is Torrens, the owner is the trustee of a revocable trust, and the owner is platting the land.

This plat requires the approval of the examiner of titles. Under Minn. Stat. § 508.62: “No instrument executed by an owner whose fee title to registered land is held in trust which transfers or plats the land, shall be registered except upon the written certification of the examiner of titles * * *.”

G. Certificate of plat correction.

This should not be filed with the registrar of titles without first obtaining a court order, or maybe an examiner’s directive. This is based on a Minnesota Attorney General opinion issued January 7, 1956.

H. Land on multiple certificates of title, with a common owner, can be combined into one new certificate of title, and the legal description may change for the better.

1. The land is found on five certificates of title, all with the same owner:

Certificate of Title	Legal Description
No. 100	Tract A, Registered Land Survey No. 2
No. 101	Tract B, Registered Land Survey No. 2
No. 102	Tract C, Registered Land Survey No. 2
No. 103	Tract D, Registered Land Survey No. 2
No. 104	Tract E, Registered Land Survey No. 2

2. The registrar of titles can cancel the five certificates of title, and issue one new one. Here is the result:

Certificate of Title	Legal Description
No. 200	Tracts A, B, C, D, and E, Registered Land Survey No. 2

3. There may be times when you want to split the land onto two certificates of title, and you can do that, too.
4. Attached is an extreme example of when you would want to combine the land on two certificates of title, into one new certificate of title. What is the new legal description?

XIII. RESOURCES

- Hennepin County Examiner of Titles website. Go to www.hennepin.us and search by keywords "Examiner of Titles."
- Matthew Foli
Counsel/Examiner/Chief Wellness Officer
Guaranty Commercial Title, Inc.
612-746-0413
mfoli@guarantytitle.net
www.guarantytitle.net

If you seek enlightenment, go to www.matthewfoli.com

Certificate of Title

Certificate Number: 100

Created by Document Number: 12345

Transfer From Certificate Number: 99

Originally registered August 4, 1922 Volume: 76, Certificate No: 24531, District Court No: 2274

State of Minnesota)
) s.s. Registration
County of Hennepin)

This is to certify that

John Doe, whose address is 123 Main Street, Minneapolis, Minnesota, 55555

is now the owner of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:

Lot 1, Block 1, Blackacre

Subject to minerals and mineral rights reserved by the State of Minnesota;

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;
2. Any real property tax or special assessment;
3. Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
4. All rights in public highways upon the land;
5. Such right of appeal or right to appear and contest the application as is allowed by law;
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
7. Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

Memorials				
Document Number	Document Type	Date of Filing Month Day, Year Time	Amount (\$)	Running in Favor Of

Indexes Verified through 1/26/2012

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this 24th day of January, 2012.

Martin McCormick, acting

Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

Certificate of Title

Certificate Number: 100

Created by Document Number: 12345

Number for current certificate of title for this land

Document number assigned to the recorded instrument that caused the registrar to issue this certificate of title, 508.38

Transfer From Certificate Number: 99

All certificates issued subsequent to the first certificate of title shall include the “transfer from number (here give the number of the next previous certificate relating to the same land,” 508.35. The previous certificate of title has now been marked “Canceled” by the registrar, 508.52

Information about the Decree of Registration; filing date, indexing information, court file number, see 508.35

Originally registered August 4, 1922 Volume: 76, Certificate No: 24531, District Court No: 2274

REGISTRATION

State of Minnesota)
)
County of Hennepin) s.s.

The word REGISTRATION in the middle of the certificate comes from the form at 508.35.

This is to certify that

John Doe, whose address is 123 Main Street, Minneapolis, Minnesota, 55555

Name and residence of the owner, 508.35; and full name and post office address of the grantee, 508.50

is now the owner of an estate in fee simple

No lesser estate than a fee simple shall be registered, 508.04, and no new certificate shall be issued upon any transfer of land which does not divest the title in fee simple of the land, or some part of it, 508.49

In the following described land situated in the County of Hennepin and State of Minnesota:

Where are we? No need to repeat this language after the plat name.

Lot 1, Block 1, Blackacre

The certificate of title shall contain a description of the land, 508.35

The south boundary line of Lot 1 is marked by judicial landmarks set pursuant to Torrens Case No. 2274.

A reference to judicial landmarks is not a “recital”—it becomes part of the legal description, 508.23, Subd. 1a

Subject to minerals and mineral rights reserved by the State of Minnesota;

This is a “recital” – it starts with the language “subject to” or “together with” and for practical purposes is no more or less significant than a memorial.

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

The following “rights or encumbrances” appear as exceptions to title on every certificate, see 508.25

1. Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;
2. Any real property tax or special assessment;
3. Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
4. All rights in public highways upon the land;
5. Such right of appeal or right to appear and contest the application as is allowed by law;
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
7. Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

The certificate of title shall by memorial contain a description of all encumbrances, liens, and interests in which the estate of the owner is subject, 508.35

Memorials				
Document Number	Document Type	Date of Filing Month Day, Year Time	Amount (\$)	Running in Favor Of

Indexes Verified through 1/26/2012

For RecordEASE, all documents recorded up through that date have been posted to the relevant certificates of title. This is the beginning of the “gap period” – the period of time between 1/26/2012 and today’s date - when documents have been received for filing and have not yet been entered as memorials on the certificate of title.

This signature block is found in the form certificate of title at 508.35.

Although the seal does not appear on this mark-up, every registrar of titles shall have an official seal and affix the same to all documents requiring the registrar’s official signature, 508.32.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this 24th day of January, 2012.

Martin McCormick, acting

Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

Certificate of Title

Certificate Number: 1348237

Created by Document Number: **4937944**

Transfer from: **1179984**

Originally registered April 13, 2006 Certificate No: 1179984, District Court No: 20677

State of Minnesota

County of Hennepin



S.S.

Registration

This is to certify that

Johannes Marliem, whose address is 1485 Green Trees Road, Orono, Minnesota, 55391
and
Mai Chie Thor, whose address is 1485 Green Trees Road, Orono, Minnesota, 55391
as joint tenants

are now the owners of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:

Lot 1, Block 1, Green Trees on Tanager Lake, except that part of Lot 1, Block 1 Green Trees on Tanager Lake embraced within the following described property: That part of the Government Lot 2, Section 11, Township 117, Range 23 and part of Lot 10, Rearrangement Of Orono Point and that part of the County Road dedicated in Orono Point all described as beginning at a point on the South line of said Government Lot 2 as determined in Torrens Case No 13819 distant 431.8 feet East along said South line from its intersection with the West line of said Section 11; thence on an assumed bearing of South 87 degrees 18 minutes 38 seconds East along the South line of said Government Lot 2 a distance of 246.56 feet; thence Northeasterly 217.30 feet along a non-tangential curve concave to the Northwest, having a radius of 196.87 feet and a chord bearing of North 41 degrees 26 minutes 54 seconds East; thence North 9 degrees 49 minutes 36 seconds East tangent to said curve a distance of 182.53 feet; thence Northeasterly 136.56 feet along a tangential curve to the right having a radius of 269.75 feet and a central angle of 29 degrees 00 minutes 24 seconds; thence North 38 degrees 50 minutes 00 seconds East tangent to the last described curve, a distance of 61.49 feet; thence North 82 degrees 25 minutes 00 seconds West, 134.80 feet; thence North 53 degrees 03 minutes 40 seconds West, 142.70 feet; thence North 42 degrees 27 minutes 00 seconds West, 144 feet; thence North 8 degrees 00 minutes 00 seconds West, 127.25 feet; thence North 2 degrees 23 minutes 00 seconds West 47.40 feet; thence North 23 degrees 31 minutes 00 seconds East to the shore line of Tanager Lake; thence Westerly along said shore line to the East line of Registered Land Survey No. 1090, Hennepin County, Minnesota; thence Southerly along said East line to the shore line of Lake Minnetonka; thence Southeasterly along the last mentioned shore line to an intersection with a line drawn Southerly parallel with the Southerly extension of the Westerly line of said Section 11 from the point of beginning, which parallel line is marked by Judicial Landmarks set pursuant to Torrens Case No. 13819; thence Northerly along said parallel line to the point of beginning, except that part of the above described land lying within "N.J. Stubbs First Subdivision In Lot Number 2 Section 11 Town 117 Range 23".

Subject to utility and drainage easements as shown on plat;

Certificate of Title

Certificate Number: 1376187

Created by Document Number: **5121516**

Transfer from: **1139554**

Originally registered November 28, 1977 Volume: 1851, Certificate No: 558332, District Court No: 18032

State of Minnesota

County of Hennepin

}

S.S.

Registration

This is to certify that

Johannes Marliem, whose address is 1485 Green Trees Road, Orono, Minnesota, 55391
and
Mai Chie Thor, whose address is 1485 Green Trees Road, Orono, Minnesota, 55391
as joint tenants

are now the owners of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:

That part of Lot 1, Block 1, Green Trees on Tanager Lake embraced within the following described property: That part of the Government Lot 2, Section 11, Township 117, Range 23 and part of Lot 10, Rearrangement Of Orono Point and that part of the County Road dedicated in Orono Point all described as beginning at a point on the South line of said Government Lot 2 as determined in Torrens Case No 13819 distant 431.8 feet East along said South line from its intersection with the West line of said Section 11; thence on an assumed bearing of South 87 degrees 18 minutes 38 seconds East along the South line of said Government Lot 2 a distance of 246.56 feet; thence Northeasterly 217.30 feet along a non-tangential curve concave to the Northwest, having a radius of 196.87 feet and a chord bearing of North 41 degrees 26 minutes 54 seconds East; thence North 9 degrees 49 minutes 36 seconds East tangent to said curve a distance of 182.53 feet; thence Northeasterly 136.56 feet along a tangential curve to the right having a radius of 269.75 feet and a central angle of 29 degrees 00 minutes 24 seconds; thence North 38 degrees 50 minutes 00 seconds East tangent to the last described curve, a distance of 61.49 feet; thence North 82 degrees 25 minutes 00 seconds West, 134.80 feet; thence North 53 degrees 03 minutes 40 seconds West, 142.70 feet; thence North 42 degrees 27 minutes 00 seconds West, 144 feet; thence North 8 degrees 00 minutes 00 seconds West, 127.25 feet; thence North 2 degrees 23 minutes 00 seconds West 47.40 feet; thence North 23 degrees 31 minutes 00 seconds East to the shore line of Tanager Lake; thence Westerly along said shore line to the East line of Registered Land Survey No. 1090, Hennepin County, Minnesota; thence Southerly along said East line to the shore line of Lake Minnetonka; thence Southeasterly along the last mentioned shore line to an intersection with a line drawn Southerly parallel with the Southerly extension of the Westerly line of said Section 11 from the point of beginning, which parallel line is marked by Judicial Landmarks set pursuant to Torrens Case No. 13819; thence Northerly along said parallel line to the point of beginning, except that part of the above described land lying within "N.J. Stubbs First Subdivision In Lot Number 2 Section 11 Town 117 Range 23".

Subject to utility and drainage easements as shown on plat;

Part of the boundaries of above plat are marked by Judicial Landmarks set pursuant to Torrens Case No. 13819;