SEA-01 Search Certificates (s.146 and 147 of the TLA) & Stay Orders

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1 Overview

Where a person wishes to deal with the registered proprietor and desires information as to any caveat, instrument lodged for registration, order or injunction not noted on the title, application may be made for a search certificate (sections 146 and 147 of the TLA). The application is made on a Search Certificate form, and the prescribed fee must be paid.

The Registrar causes the necessary searches to be made and signs and dates the Search Certificate form referred to above. This certificate does not absolve the applicant from making a search of title. The applicant is deemed to know that which a search of the certificate of title would reveal. The certificate is issued as correct at the date and time of sealing by an Assistant Registrar of Titles.

Note:

The applicant in a Search Certificate is any person who wishes to deal with any interest in land of a registered proprietor.

The applicant or his authorised agent may sign the application.

2 Stay Orders (Section 148 of the TLA)

Where a person proposes to deal for value with a registered proprietor an application for a search certificate and stay order may be made with the consent of the proprietor or the proprietor’s agent. The application is made on a Stay Order form.

Should the Search Certificate show that the registered proprietor is free to deal with the land, the
order prepared in the Stay Order form referred to above is signed and dated by the Registrar, staying the registration of any other instrument affecting the land for forty eight hours from the time stated on the order. The proposed dealing has priority over any other dealing for the time stated (s.149 of the TLA).

If the proposed dealing is not lodged within the time covered by the Stay Order any other dealings lodged within that time are dealt with according to their priorities (s.150 of the TLA).

Note:

The applicant in a Stay Order is any person who wishes to deal for value with any interest in land of a registered proprietor.

The application must be signed by the applicant and the registered proprietor or the registered proprietor’s authorised agent.