

## REGISTRATIONS

# CUSTOMER INFORMATION BULLETIN

BULLETIN NO. 208  
30 AUGUST 2011

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### New Caveats for Land Owners

This Customer Information Bulletin supersedes and completely replaces CIB No. 207. It contains more information and clarifies the procedures for this new caveat.

Western Australia has experienced two instances within the last 12 months where real property appears to have been sold without the owner's consent. In both cases, the owner (registered proprietor) was residing outside of WA and it appears that they were victims of identity theft.

In order to reduce the risk to WA landowners from being the subject of improper dealings on their property, a new caveat service is being offered by Landgate. A Caveat (Improper Dealings) can now be lodged with Landgate. The caveat, once lodged, will stop the registration of any instruments or documents that would ordinarily need to be signed by the owner, for example:

- Transfers,
- Mortgages, and
- Leases

A Caveat (Improper Dealings) Form C4 must be made in the name of all the owners. If one of the owners does not want to be part of the caveat then it cannot be lodged. The caveat can be signed and lodged with Landgate by the owners themselves, or a Solicitor acting on behalf of all the owners. The Solicitor must be instructed by all owners to act for them in the preparation and lodgement of the caveat. A Licensed Settlement Agent does not currently have authority under the *Settlements Agents Regulations 1982* to sign and lodge a caveat to prevent improper dealings on behalf of land owners.

Please note that owners who have mortgaged properties should review their mortgage terms and consult with their lending institution before lodging a Caveat (Improper Dealings) as the terms and conditions of the mortgage may prevent the lodgement of any caveat without the mortgagee's consent.

In order to remove the Caveat, all the owners must present themselves in person at the same time at Landgate's Midland office and satisfy, as a minimum, the requirements of a 100 point identity check using original documents, not copies. Only the owners of the property can remove the Caveat in person. For example, if the property was owned by three persons as tenants in common, and one of the owners did not wish the caveat to be lodged, then the other owners would not be able to lodge a Caveat (Improper Dealings). In the same way, once a Caveat (Improper Dealings) is in place, if one of the (say) three owners did not want it to be withdrawn, then the other two owners could not successfully lodge a Withdrawal of Caveat form.

The Withdrawal of Caveat (Improper Dealings) can only be lodged at the time of witnessing.

A Power of Attorney cannot be used to withdraw the caveat.

The strength of a Caveat (Improper Dealings) is that the only way to remove it is for all the owners to attend in person at Landgate's Midland office to identify themselves to the satisfaction of the Registrar of Titles.

Due to the operation of law, the Caveat (Improper Dealings) will not prevent the following, including but not limited to:

Mortgagee exercising a power of sale would be able to use section 138B of the *Transfer of Land Act 1893* as the application is not being signed by the owners;  
Sale of the property by a Local Government for non-payment of rates;  
Sale by the Sheriff under a Property (Seizure and Sale) Order;  
In the case of deceased owner(s) Survivorship and Transmission; and  
Sale under the Criminal Confiscation Act 2000.

The current regulated fee of \$160 applies for the lodgement and withdrawal of each caveat.

To access the Caveat (Improper Dealings) C4 form [Click here](#).

For further information contact Landgate's Advice Line on (08) 9273 7044 or <mailto:advice@landgate.wa.gov.au>.

A handwritten signature in black ink, appearing to read 'Jean Villani', with a stylized flourish at the end.

Jean Villani  
Delegated Registrar of Titles  
A/Manager Registrations  
30 August 2011