

## Kimberly E. Brzezinski

### WORK ADDRESS:

HANFT FRIDE, P.A.  
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### HOME ADDRESS:

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### DESCRIPTION OF CURRENT PRACTICE

After beginning my practice in the Brainerd Lakes Area of northern Minnesota (with Brainerd being a city and the county seat of Crow Wing County, Minnesota, with a 2020 census population of 14,395), in 2012 I relocated back to my hometown of Duluth, Minnesota. Duluth is a port city and the county seat of St. Louis County, Minnesota, with a 2024 census population of 87,999. Both the Brainerd Lakes Area and Duluth provide unique real estate environments, with a large amount of rural surrounding communities and a significant number of lakeshore properties.

My current practice focuses heavily on title and residential real estate matters, and I have been fortunate to dedicate 100% of my practice to real estate. I routinely deal with title examination, title and conveyancing matters, Torrens property, access rights, encroachment easements, purchase agreements, leasing, subdivision and platting, and a broad spectrum of other real estate related matters. I also currently serve as the Deputy Examiner of Titles for Sherburne and Mille Lacs Counties.

Significant engagements include representation of a local utility company in connection with various real estate matters, including the platting and sale of land holdings surrounding several hydropower reservoirs, worth a total land value of approximately \$101 million.

### EDUCATIONAL BACKGROUND

William Mitchell College of Law, JD, December of 2007

University of Wisconsin-Superior, BA, 2004

- Mass Communications major
- Spanish and Sports Management minors
- Member and captain of collegiate Division III Volleyball team

**BAR MEMBERSHIPS AND DATES**

Minnesota Bar Association                    2008 to present

11<sup>th</sup> District Bar Association                2013 to present

Licensed: Minnesota (2008), Wisconsin (2016)

**EMPLOYMENT HISTORY**

Hanft Fride, P.A. (Duluth, MN)                2022, associate / 2023 to present, shareholder

Mille Lacs County, MN                        2023 to present, Deputy Examiner of Titles

Sherburne County, MN                        2023 to present, Deputy Examiner of Titles

St. Louis County, MN (Duluth, MN)        2016 to 2022, Examiner of Titles

Hanft Fride, P.A. (Duluth, MN)                2014 to 2016, associate attorney

Andresen & Butterworth (Duluth, MN)    2012 to 2014, associate attorney

Thomas Law (Crosslake, MN)                2008 to 2012, associate attorney

**LEGAL PUBLICATIONS**

Publication: Minnesota Continuing Legal Education Real Estate Titles Deskbook

Title:                    Actions Involving Torrens Property

Dated:                   Updated 2023

\*See written materials at Supplement 1.

**BAR ACTIVITIES**

Minnesota State Bar Association Real Property Section Legal Certification Committee  
Member, May of 2023 to present

Minnesota State Bar Association Real Property Section Council  
Member, 2022 to present

Minnesota State Bar Association Real Property Section Title Standards Committee  
Member, October of 2022 to May of 2024

Minnesota State Bar Association Real Property Section Legislative Committee

Member, 2015 to 2017

11<sup>th</sup> District Bar Association, local Association of Minnesota State Bar Association  
Member, 2012 to present

Northeast Chapter of Minnesota Women Lawyers  
Member, 2012 – present  
Treasurer, 2014 to 2015

## TEACHING ACTIVITIES

- Oct. 24, 2024: *Important Topics in the Torrens System*  
Sponsor: Minnesota Continuing Legal Education  
Approximate hours spent: 2.5, of which 1 will be oral panel.  
\*See written material at Supplement 2.
- Oct. 25, 2024: *Clearing Title Defects – Using Non-Judicial Means, or Reformation, Quiet Title and Partition Actions, and Even Registration of Title*  
Sponsor: Minnesota Continuing Legal Education  
Approximate hours spent: 2.5, of which 1 will be oral presentation.
- Jan. 24, 2024: *A Survey of Common Title Defects*  
Sponsor: Minnesota Continuing Legal Education  
Approximate hours spent: 4, of which 1 was oral presentation.
- Nov. 2, 2023: *Torrens 101 – Understanding Torrens and Registration of Title*  
Sponsor: Minnesota Continuing Legal Education  
Approximate hours spent: 2, of which 1 was oral presentation.  
\*See written materials at Supplement 3.
- Aug. of 2023: *10 Real Estate Title and Conveyancing Problems and Solutions*  
Sponsor: Minnesota Continuing Legal Education  
Approximate hours spent: 5, of which 1 was oral presentation.
- Oct. 27, 2022: *Clearing Title Defects – Using Non-Judicial Means, or Reformation, Quiet Title, and Partition Actions, or Even Registration of Title to Solve the Problem*  
Sponsor: Minnesota Continuing Legal Education  
Approximate hours spent: 3, of which 1 was oral presentation.
- Mar. 10, 2022: *Simplifying Examiner’s Directives and Proceedings Subsequent*  
Sponsor: Minnesota Continuing Legal Education  
Approximate hours spent: 2, of which 1 was oral presentation.

- Jan. 25, 2022: *Everything the Examiner of Titles Wants You to Know About Transferring Real Estate*  
Sponsor: Minnesota Continuing Legal Education  
Approximate hours spent: 2.5, of which 1 was oral presentation.
- Nov. 11, 2021: *Torrens 101 – Understanding the Torrens System and Purpose – Plus the Basics of Torrens Process and Proceedings Subsequent*  
Sponsor: Minnesota Continuing Legal Education  
Approximate hours spent: 3, of which 1 was oral presentation.
- July 2021: *The 7 Deadly Sins of Torrens Practice*  
Sponsor: Minnesota Administrative Professionals Association  
Approximate hours spent: 2, of which 1 was oral presentation.
- May 2021: *The 7 Deadly Sins of Torrens Practice*  
Sponsor: Minnesota Association of County Officers  
Approximate hours spent: 2, of which 1 was oral presentation.
- Nov. 12, 2020: *The 7 Deadly Sins of Torrens Practice – Mistakes Attorneys Make That Create Title Problems, Create Delays and Cause Recording Rejects*  
Sponsor: Minnesota Continuing Legal Education  
Approximate hours spent: 5, of which 1.5 was oral presentation.
- Feb. 2020: *Torrens Title Hotspots*  
Sponsor: Minnesota Society of Professional Surveyors  
Approximate hours spent: 4, of which 2 was oral presentation.
- Aug. 6, 2020: *Curing Title Problems*  
Sponsor: Minnesota Continuing Legal Education  
Approximate hours spent: 3, of which 1 was oral presentation.
- Oct. 31, 2019: *Understanding Torrens and How It Works*  
Sponsor: Minnesota Continuing Legal Education  
Approximate hours spent: 3, of which 1 was oral presentation.
- Feb. 2019: *Torrens Workshop*  
Sponsor: Minnesota County Recorders Association  
Approximate hours spent: 3, of which 1 was oral presentation.
- May 21, 2019: *Conveyancing To and From Trusts*  
Sponsor: Property Records Industry Association  
Approximate hours spent: 4, of which 1 was oral presentation.
- May 21, 2019: *Torrens Panel*  
Sponsor: Property Records Industry Association  
Approximate hours spent: 3, of which 1 was oral presentation.

- Nov. 1, 2018: *Understanding Torrens and How It Works – With Special Focus on Certifications, Examiner’s Directives and the Use of Proceedings Subsequent*  
 Sponsor: Minnesota Continuing Legal Education  
 Approximate hours spent: 3, of which 1 was oral presentation.
- Oct. 29, 2018: *Certifications, Examiner’s Directives, Proceedings Subsequent, Boundary Registrations and Jurisdiction of the Torrens Court*  
 Sponsor: Minnesota Continuing Legal Education  
 Approximate hours spent: 5, of which 1 was oral presentation.
- June 2018: *Torrens Workshop*  
 Sponsor: Minnesota County Recordors Association  
 Approximate hours spent: 2.5, of which 1 was oral presentation.
- May 2018: *Initial Registrations & Certificates of Possessory Title*  
 Sponsor: Minnesota Continuing Legal Education  
 Approximate hours spent: 3, of which 1 was oral presentation.
- Feb. 8, 2018: *Actions Involving Torrens Property – Certificates, Directives, and Proceedings Subsequent*  
 Sponsor: Minnesota Continuing Legal Education  
 Approximate hours spent: 3, of which 1 was oral presentation.
- Nov. 2, 2017: *Open Forum on Torrens Property – Ask Your Toughest Questions*  
 Sponsor: Minnesota Continuing Legal Education  
 Approximate hours spent: 2, of which 1 was as oral co-panelist.
- Jan. 2017: *You Want Me To Do What? RLSs and More*  
 Sponsor: Minnesota Society of Professional Surveyors  
 Approximate hours spent: 4, of which 1 was oral presentation.
- Nov. 3, 2016: *Cartways, Easements and Roads: Access, Rights and Burden*  
 Sponsor: Minnesota Continuing Legal Education  
 Approximate hours spent: 5, of which 1 was oral presentation.
- 2016: Adjunct Professor, University of Wisconsin-Superior, Real Property Law

#### COMMUNITY SERVICE AND PRO BONO ACTIVITIES

REA3D (Rails Endowment for Academics, Arts and Athletics)  
 Member, 2012 to 2014  
 Board Chair, 2014  
 Hours spent: approximately 4 hours per month

Legal Aid Service of Northeastern Minnesota  
Volunteer Attorney  
2020 to present  
Hours spent: approximately 10 hours per year

## HONORS

2015 Up & Coming Attorney, awarded by Minnesota Lawyer Magazine

## ATTACHMENTS

See Attachment 1 – Hanft Fride, P.A. website profile

See Attachment 2 – MSBA Public Registry evidencing real property certification

## PERSONAL

Date of birth: July 7, 1982

Hobbies: Watching/coaching my childrens' sports, reading, walking, cooking,  
boating/going to the cabin

## \* WRITTEN MATERIALS

Supplement 1 – Minnesota Continuing Legal Education Real Estate Titles Deskbook, Actions Involving Torrens Property.

Supplement 2 – Clearing Title Defects – Using Non-Judicial Means, or Reformation, Quiet Title and Partition Actions, and Even Registration of Title.

Supplement 3 – Torrens 101 – Understanding Torrens and Registration of Title.

# **SUPPLEMENT 1**

Chapter Twelve

# Actions Involving Torrens Property

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**Kimberly E. Brzezinski**  
St. Louis County Examiner of Titles  
Duluth

*The author wishes to acknowledge the assistance of Wayne D. Anderson, Ramsey County Examiner of Titles, and Nathan Bissonette, Ramsey County Deputy Examiner of Titles, in reviewing this chapter.*



# Author

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## **Kimberly E. Brzezinski** **St. Louis County Examiner of Titles**

Kimberly E. Brzezinski has served as the Examiner of Titles for St. Louis County since July of 2016. Prior to that, Ms. Brzezinski was in private practice in Duluth and Crosslake, representing clients in connection with transactional and litigation real estate matters. Ms. Brzezinski is a Minnesota State Bar Association (MSBA) Certified Real Property Specialist, and serves on the MSBA Real Property Section Legislative Committee. Ms. Brzezinski also is also a member of the Northeast Chapter of Minnesota Women Lawyers, chairs the 11th District Bar Association's Real Property Section, and is a former member of the Board of Directors for the 11th District Bar Association. Additionally, Ms. Brzezinski also taught real property law at the University of Wisconsin-Superior as an adjunct professor.

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## § 12.1 INTRODUCTION

This chapter deals with matters involving Torrens or registered land, specifically transactions and actions subsequent to initial registration. More simply, this chapter addresses matters that affect the title to land that has already been registered.

The act of registering land under Minnesota Statutes chapters 508 or 508A imposes upon that land certain procedural requirements for matters involving the land. This chapter will address matters that require review and certification by, or directives of, an examiner of titles; proceedings subsequent to initial registration which require district court actions; and the jurisdiction of examiners of title in their judicial capacity.

For ease of reference, this chapter will use the word “Torrens” herein to refer to registered land, “examiner” to refer to an examiner of titles, “registrar” to refer to a registrar of titles, “COT” to refer to a certificate of title, and “CPT” to refer to a certificate of possessory title.

## § 12.2 EXAMINER CERTIFICATIONS

By statute, several types of transactions affecting Torrens land require that documents are reviewed and approved or certified by the examiner. Some counties have also imposed policies requiring review and approval by the examiner for certain types of transactions affecting Torrens land, despite certification not being statutorily required. The specific requirements and the procedure for obtaining approval vary depending upon the county where the land is located.



### PRACTICE TIP

The single most important practice tip is to communicate with the registrar and/or examiner in the county in which the relevant property is located. The process utilized by St. Louis County, for example, may vary from the process utilized by Hennepin or Anoka County. This applies to the method of obtaining examiner approval (e.g., preapproval before the documents are signed versus approval at the time the documents are submitted for recording), the situations in which examiner review and approval or certification is required, and the cost of obtaining any required approval. One should not assume that what is required in one county will be acceptable in another.

The following types of transactions either require or routinely include certification by the examiner (note that the references to sections of Minnesota Statutes chapter 508A apply only if the county has adopted the use of certificates of possessory title under that chapter). Most examiners follow the Minnesota Title Standards to determine what specific documents are required for each of these transactions.

### A. Trust Conveyances – MINN. STAT. §§ 508.62; 508A.62

The statutes require written certification of the examiner that the conveyance document is executed in accordance with a power conferred in the instrument of trust, evidenced in a certificate of trust authorized by Minnesota Statutes section 501C.1013, or is authorized by law.

**PRACTICE TIP**

- Note that a transfer or platting of registered land held by a trust triggers the requirement for examiner certification.
- A deed executed by a corporate trust, as defined in Minnesota Statutes section [501C.0102](#), need not be certified by the examiner, although many registrars require that the deed contain a statement that “Grantor is a Corporate Trust as defined in Minn. Stat. § [501C.0102](#),” or something similar.

**B. Dissolution or Other Decree – MINN. STAT. §§ [508.59](#); [508A.59](#)**

The statutes require written certification of the examiner as to the legal sufficiency of a judgment or decree presented for filing for the purpose of obtaining a new COT or CPT.

**PRACTICE TIP**

Although not statutorily required, it is recommended that parties use a summary real estate disposition judgment (SREDJ) instead of a decree. Decrees contain extraneous—and oftentimes sensitive or private—information unrelated to the real property transfer.

If a decree, SREDJ, or certificate of dissolution is used to prove divorce, a deed from the divested spouse to the spouse awarded the property can be used to avoid the requirement (and possibly the expense, depending upon whether the examiner charges for certifications) of examiner review. In other words, court-issued proof of divorce along with a deed from one ex-spouse grantor (whose marital status would have to be stated as single on the face of the instrument) to the other ex-spouse is sufficient to pass title without examiner certification.

If a SREDJ has been obtained in a dissolution proceeding, Minnesota Statutes section [518.191](#), subdivision 3 provides that the SREDJ must be recorded, and the decree itself cannot.

**C. Probate Proceedings – MINN. STAT. §§ [508.68](#); [508.69](#); [508A.68](#); [508A.69](#)**

The statutes require that no COT or CPT can be issued except upon the written certification of the examiner as to the legal sufficiency of the documents presented for filing.

**PRACTICE TIP**

Most, if not all, examiners require that the letters in a probate proceeding are certified through or after the effective date of the deed or the date the personal representative's signature is notarized, whichever is later.

**D. Guardianship/Conservatorship – MINN. STAT. §§ 508.68; 508.69; 508A.68; 508A.69**

The statutes require that no COT or CPT can be issued except upon the written certification of the examiner as to the legal sufficiency of the documents presented for filing.

**E. Eminent Domain**

A new COT or CPT can be issued following a taking by eminent domain. MINN. STAT. §§ 508.73, SUBD. 1; 508A.73, SUBD. 1.

**COMMENT**

Minnesota Statutes sections 508.73, subdivision 1 and 508A.73, subdivision 1 provide that following a taking, a new COT or CPT may be issued either by a court order in a proceeding subsequent or by certification of the examiner of title as to the sufficiency of the final certificate or court order and other instruments presented for filing.

**F. Powers of Attorney – Not Required By Statute and County-Specific**

While there is no statutory requirement that an examiner certify a transaction involving a power of attorney, many registrars request examiner guidance on such transactions.

**PRACTICE TIP**

- If the attorney in fact (AIF) is a successor to the original AIF, both of the affidavits required by Minnesota Statutes sections 523.16 and 523.17 must be submitted.
- Many examiners require that the affidavit by the AIF be executed on or after the effective date of the deed or the date the AIF's signature was notarized, whichever is later.

**EXAMPLE**

If the face of deed is dated January 1, 2018, but the AIF's signature was notarized on January 2, 2018, the affidavit by the AIF should be executed and notarized January 2, 2018 or later (not January 1, 2018). Not all examiners take this position, but many do and the prudent approach would be to go with the later date.

### G. Transfer on Death Deed Clearances – Not Required By Statute and County-Specific

While there is no statutory requirement that an examiner certify requests for a new COT based on a transfer on death deed (TODD), many registrars request examiner guidance on such transactions.



#### PRACTICE TIP

A TODD need not be (and is not) reviewed or approved by the examiner upon recording. It is important to remember that acceptance of the TODD for recording does not mean that the TODD will “work” the way the parties intend, or at all. Certification does not occur until the relevant grantor-beneficiary has died, at which point it would be too late to correct any deficiencies in the TODD.

### H. Religious Corporation Transfers – Not Required By Statute and County-Specific

Due to the complexity of these transactions, many registrars seek the guidance of their examiners to determine if all necessary procedural requirements have been met.

### I. Easements – Not Required By Statute and County-Specific

Many registrars seek the guidance of their examiners to determine if easements affecting Torrens property are acceptable.



#### PRACTICE TIP

- Practice varies from county to county as to whether an easement encumbering abstract property and benefiting Torrens property is recordable on the certificate of title for the Torrens property. The concern lies in the fact that title to the abstract property has not been adjudicated and the easement may not actually be valid.
- Pursuant to Minnesota Statutes section [508.04](#), an easement interest may itself be registered, even if the underlying unregistered land is not.

### J. Plats and Registered Land Surveys – Not Required By Statute and County-Specific

Practice varies as to whether an examiner is involved in the platting process.

**PRACTICE TIP**

Procedural requirements concerning platting vary from county to county, including but not limited to who is involved in the review process (e.g., county surveyor, examiner, county attorney, etc.) and what steps may be necessary from a title standpoint when a plat affects registered land.

**K. Lot or Parcel Splits – Not Required By Statute**

Some registrars seek examiner review and approval of lot or parcel splits, and often will require a survey and possibly additional procedural steps to ensure that no gaps or overlaps result from a change to the certificate of title's legal description. Also, Minnesota Statutes section [508.47](#) provides for the registrar of titles to require a registered land survey in certain situations.

**PRACTICE TIP**

The process for obtaining the certification of an examiner varies from county to county depending on whether the examiner is full-time or employed on a contract basis, where the examiner is physically located in relation to the registrar, and at what stage certification is granted (e.g., preapproval before documents are submitted for recording or at the time of submission). This reinforces how important it is to determine the county-specific rules and policies to ensure the transaction is processed as smoothly as possible.

**§ 12.3 EXAMINER'S DIRECTIVES**

An examiner's directive serves the purpose of directing the registrar to perform some act. Minnesota statutes expressly prescribe the situations for which an examiner's directive shall be used.

The following matters statutorily require an examiner's directive (note that the references to sections of Minnesota Statutes chapter [508A](#) apply only if the county has adopted the use of CPTs under that chapter):

1. Amending or canceling 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. MINN. STAT. §§ [508.71](#), [SUBD. 3\(1\)](#); [508A.71](#), [SUBD. 3\(1\)](#).
2. Correcting the name or designation of a party who is a registered owner or who has an interest registered on a COT or CPT. MINN. STAT. §§ [508.71](#), [SUBD. 3\(2\)](#); [508A.71](#), [SUBD. 3\(2\)](#).
3. Deleting easements or other non-fee interests which are terminated by their own terms or by written instrument satisfactory to the examiner. MINN. STAT. §§ [508.71](#), [SUBD. 3\(3\)](#); [508A.71](#), [SUBD. 3\(3\)](#).

4. Accepting for filing previously rejected documents (commonly referred to as an “appeal” to the examiner). MINN. STAT. §§ 508.321; 508A.321.
5. Issuing a new COT or CPT following a mortgage foreclosure by action. MINN. STAT. §§ 508.58, SUBD. 2; 508A.58, SUBD. 2.
6. Issuing a new COT following the termination of a contract for conveyance of a time share interest. MINN. STAT. § 508.58, SUBD. 3.
7. Issuing a new COT following the foreclosure of certain time share interests. MINN. STAT. § 508.58, SUBD. 4.
8. Issuing a new COT or CPT following the cancellation of a contract for deed if documents evidencing a legally sufficient cancellation under Minnesota Statutes section 559.21 have been of record on the COT or CPT for at least five years. MINN. STAT. §§ 508.58, SUBD. 5; 508A.58, SUBD. 3.
9. Issuing a new COT following a forfeiture evidenced by a county auditor’s certificate of forfeiture, auditor’s certificate of sale, or state assignment certificate that has been memorialized upon a COT for at least 10 years. MINN. STAT. § 508.67, SUBD. 2.
10. Recording a declaration or bylaws for a condominium, or an amendment to the declaration or bylaws, or a supplemental declaration pursuant to Minnesota Statutes section 515B.2-111. MINN. STAT. §§ 508.351, SUBD. 1; 508A.351, SUBD. 1a.



#### COMMENT

Minnesota Statutes sections 508.351, subdivision 1 and 508A.351, subdivision 1a provide that a determination that the documents comply with the requirements of the applicable condominium statutes be made either by a court order in a proceeding subsequent or a directive of the examiner. Most examiners do not require a court order and are willing to make the required determination via directive.

11. Adding vacated streets or alleys to the face of a COT or CPT. MINN. STAT. §§ 508.73, SUBD. 2; 508A.73, SUBD. 2.



#### COMMENT

Minnesota Statutes sections 508.73, subdivision 2 and 508A.73, subdivision 2 provide that a vacated street or alley may be added to the face of a COT or CPT either by a court order in a proceeding subsequent or a directive of the examiner. Most examiners do not require a court order and are willing to make the required determination via directive.



12. Dropping memorials or recitals on a COT or CPT not actually affecting the land contained within said COT.



### COMMENT

Sometimes a recital or memorial will be carried onto a COT or CPT if the land included in the COT or CPT was originally part of a larger parcel and a split occurred, for example. An easement may affect only part of the land and be carried onto the COT or CPT for other part of the land. Some registrars have the mentality that they would rather carry a memorial that ultimately does not affect the land in the new COT versus erroneously dropping something that should have been carried.



### PRACTICE TIP

- Some of these matters may also be addressed by court order, although obtaining an examiner's directive is likely more efficient both financially and timewise. Some counties charge for a directive, while others do not. Similarly, the method of obtaining a directive varies from county to county (e.g., Ramsey County allows parties to request a directive via its website). Again, it is important for practitioners to be familiar with, or at least inquire about, the processes utilized by the county in which the land is located.
- The registrar may also issue a written document correcting clerical errors or omissions made by the registrar's staff in producing certificates of title. MINN. STAT. §§ 508.71, SUBD. 1a; 508A.71, SUBD. 1a.

## § 12.4 PROCEEDINGS SUBSEQUENT TO INITIAL REGISTRATION

Proceedings subsequent to initial registration involve the commencement of a district court action and the resulting issuance of a court order directing some alteration to a COT or CPT.

Minnesota Statutes sections [508.71, subdivision 2](#) and [508A.71, subdivision 2](#) provide a list of bases for a registered owner or other person in interest to commence a proceeding subsequent. Those bases include:

1. that registered interests have terminated and ceased;
2. that new interests not reflected on the COT or CPT exist;
3. that an error or omission was made in entering a COT, CPT, or a memorial;
4. that the name of any person on the COT or CPT has been changed;
5. that the registered owner has married or a marriage has been terminated;

6. that a corporate owner that has been dissolved has not conveyed the land within three years after its dissolution; or
7. upon any reasonable ground that any other alteration or adjudication should be made.

There are also some situations in which a proceeding subsequent is statutorily required, including:

1. Obtaining a new COT or CPT following a mortgage foreclosure by advertisement (this is common and is discussed in detail in section 12.5, *infra*). MINN. STAT. §§ 508.58, SUBD. 1; 508A.58, SUBD. 1.
2. To obtain a new COT or CPT following foreclosure of a lien. MINN. STAT. §§ 508.58, SUBD. 1; 508A.58, SUBD. 1; 508.67, SUBD. 1; 508A.67.
3. To obtain a new certificate of title following a forfeiture evidenced by a county auditor's certificate of forfeiture or auditor's certificate of sale or state assignment certificate that has been memorialized upon a COT for less than 10 years. MINN. STAT. § 508.67, SUBD. 2.
4. To have some or all of the land's boundary lines judicially determined. MINN. STAT. § 508.67, SUBD. 1.
5. For determination of an adverse claim or claim of unregistered interest. MINN. STAT. §§ 508.70, SUBD. 2; 508A.70, SUBD. 2.
6. To reform a COT or documents memorialized thereon.
7. To transfer title under a contract for deed where a satisfying deed has been lost or cannot be obtained.
8. To obtain a new COT pursuant to a repurchase following a tax forfeiture if the repurchase deed runs in favor of less than all record owners at the time of the tax forfeiture.
9. Any other change the examiner does not feel comfortable in directing without a court hearing and notice to affected parties.

The procedure for a proceeding subsequent varies by county. Generally, however, the process includes the following procedural steps:

1. *A petition is filed.* The petition should identify the COT or CPT at issue, include a legal description of the land, lay out the necessary assertions regarding the relief sought, and clearly state what the petitioner wants.



### PRACTICE TIP

- Many counties have form samples of various types of petitions on their websites (as well as other helpful forms used in proceedings subsequent and other Torrens-related matters). As examples, see Hennepin County Examiner of Titles web page, <<https://www.hennepin.us/business/property/examiner-titles>>; Ramsey County Examiner of Titles web page, <<https://www.ramseycounty.us/residents/property-home/records/examiner-titles>>; St. Louis County Examiner of Titles web page,



### PRACTICE TIP CONTINUED

<<https://www.stlouiscountymn.gov/departments-a-z/public-records/recording/examiner-of-titles>>, and the web profile page for David Myers, Examiner of Titles for Sherburne, Mille Lacs, Roseau, Kittson, Marshall, and Wilkin Counties and Deputy Examiner of Titles for Stearns, Benton, and Koochiching Counties, <<https://www.rinkenoonan.com/attorneys/david-j-meyers/>>.

- Some counties require examiner review and approval of the petition prior to e-filing the petition. The specific process to obtain the necessary approval (e.g., emailing the petition to the examiner for review, obtaining the examiner’s signature on the petition, etc.) varies by county.

2. *An examiner’s report is issued.* The examiner’s report is essentially the “roadmap” to the proceeding, identifying the parties who must be served with notice of the proceeding, as well as any other evidentiary proof that must be presented at the hearing (e.g., proof regarding military status of the defendant, whether any party in interest has filed for bankruptcy protection, and the occupancy status of the land at issue).

The examiner’s report will also identify any other issues or concerns that must be addressed prior to issuance of an order for the relief sought by the petitioner.

3. *An order to show cause is issued and served on the parties identified in the examiner’s report.* The petitioner’s lawyer should draft the proposed order to show cause, which will then be provided to the examiner’s office for execution by the examiner and/or judge.

It is also possible that issuance of a land title summons may be appropriate instead of an order to show cause. The petitioner can request, and/or the examiner can require, the use of a land title summons in a proceeding subsequent. MINN. STAT. § 508.71, SUBD. 2.



### PRACTICE TIP

The order to show cause form does vary slightly from county to county, as does the required method of service (e.g., some counties require publication for three weeks while others only require two weeks’ publication). The method of providing the order to show cause to the examiner for review and approval may also vary (e.g., some counties request that it be emailed to the examiner in Microsoft Word form, while other counties request that it be e-filed).

4. *Proof required by the examiner’s report, including proof/affidavits of service, is filed.*
5. *A hearing is held and the matter is either continued if contested, or proceeds by default and an order is issued.*

In most counties, but not all, contested matters are referred to the district court for hearing.

Many counties request that a proposed order be submitted, most often by email in Microsoft Word format so the examiner can alter it as necessary. Specific instructions for the order's contents and how and when to submit the order can be found on many examiner's websites.



### PRACTICE TIP

The hearing is handled differently depending on the county and the subject matter of the hearing. Some counties have non-appearance initial hearings, some allow appearance by telephone, and some require in-person appearances. In some counties, the examiner presides over the hearing, while in others a district court judge does so. The appearance method may vary depending upon the subject matter of the proceeding subsequent. Check with the county for county-specific policies and procedures.

6. *A certified copy of the order is filed with the registrar to be memorialized on the relevant COT(s) or CPT(s).*



### PRACTICE TIP

- Find out who is responsible for obtaining and recording the certified copy of the final order. Some counties prefer to handle it themselves to ensure the final order is memorialized as soon as possible to avoid the possibility of conflicting documents being memorialized between issuance and recording of the final order.
- While each county has slightly varying requirements and procedures for proceedings subsequent, many examiners have instruction manuals on their websites describing the process for proceedings subsequent in their counties. When in doubt, contact the examiner's office.

## § 12.5 PROCEEDINGS SUBSEQUENT AFTER FORECLOSURE

The specific steps required following foreclosure depend upon what is being foreclosed and the method of foreclosure. A directive, and not a proceeding subsequent, is all that is necessary to obtain a new certificate of title following a foreclosure of a mortgage by action. MINN. STAT. §§ 508.58, SUBD. 2; 508A.58, SUBD. 2.

Foreclosure of a mortgage by advertisement, of a lien, of certain time share interests, or of an "other charge" upon registered land, however, requires a proceeding subsequent in order to obtain a new certificate of title. MINN. STAT. §§ 508.58, SUBD. 1; 508A.58, SUBD. 1. This is by far the most common type of proceeding subsequent. The examiner's role is to determine whether the underlying foreclosure was performed properly in accordance with Minnesota Statutes chapter 580, or alternatively, whether any defects in the underlying procedure require a "do-over."

Most of the time these matters proceed by default and no fatal defects in the underlying foreclosures are found. Fatal defects would include failing to properly and timely record the mortgage, all assignments, and the sheriff's certificate; failing to recognize the proper redemption period; the lack of a power of sale in the mortgage; and the lack of a legal description in the mortgage, notice of sale, or sheriff's certificate. Most defects, however, are curable by the curative act in Minnesota Statutes section [582.25](#), and/or notice to affected parties and an opportunity to object.

## § 12.6 ACTION TO DETERMINE BOUNDARY LINES – MINN. STAT. § [508.671](#)

### A. Statutory Authority

Minnesota Statutes section [508.02](#) was amended in 2008 to expressly provide that the common law doctrine of practical location of boundaries applies to Torrens land and that Minnesota Statutes section [508.671](#) applies in a proceeding subsequent to establish a boundary by practical location for Torrens land.

Section 508.671 sets forth the requirements for an owner of Torrens land (or an owner of abstract land with at least one boundary line abutting Torrens land) to register title to one or more boundary lines.

Minnesota Statutes section [559.24](#) requires that any owner, lienholder, or person interested in any land at issue ought to be made a party to the proceeding.

Minnesota Statutes section [559.25](#) describes the judicial landmarks required by section 508.671.

### B. The Parties

All owners, lienholders, and other persons with an interest in the affected land should be identified in the petition and will be named as parties in the examiner's report.

If the land affected is all Torrens, determination of interested parties is relatively simple. If any of the affected land is abstract, however, the examiner may require an owners and encumbrances report or other documentation to assist in identifying necessary parties.

### C. The Documents/Process

#### 1. The Petition

A petition containing the content required by Minnesota Statutes section [508.671](#) is filed with the district court and a certified copy is then recorded as a memorial on the relevant COTs, and in the tract index if any of the land involved is abstract.

**PRACTICE TIP**

- Like with proceedings subsequent discussed above, *see supra* section 12.4, the examiner may have specific review and approval requirements for a petition seeking relief under Minnesota Statutes section 508.671.
- Again, practitioners should inquire as to who is responsible for obtaining and recording a certified copy of the petition on the affected COTs and the tract index for abstract land, if applicable. In some counties, the examiner's office handles these tasks.

**2. The "Initial" Survey**

A survey completed by a licensed land surveyor is required and should show the correct location of the boundary line(s) to be determined.

**COMMENT**

For a detailed discussion regarding considerations involving surveys in boundary registration proceedings, *see supra* Chapter 11, Registering Property.

**3. The Examiner's Report**

The examiner's report will set forth any remaining procedural requirements and a discussion of the land affected and associated interested parties who must be served with a summons.

**4. The Summons**

Parties are to be served with a summons in the same manner they are served in an initial registration. An order to show cause, which is used in most proceedings subsequent, is not used for this type of claim.

**PRACTICE TIP**

The summons is generally drafted by the petitioner, as is a petition for summons and order for summons. Practitioners should discuss how to submit these documents (e.g., e-file versus email to examiner) with the examiner's office.

### 5. The Interlocutory Order

In the registration of boundaries there are generally two hearings. At the first hearing all evidence is offered and at that time only an interlocutory order determining boundaries is entered. This order directs the surveyor to mark the boundaries by placing judicial landmarks.

### 6. The “Second” Survey

After the surveyor complies with the interlocutory order by setting the judicial landmarks, a second certificate of survey is prepared which certifies that judicial landmarks were placed, depicts the location of the judicial landmarks set, and incorporates references to the judicial landmarks into the legal description.



#### PRACTICE TIP

After the final order is issued as discussed in the next subsection, a certified copy of the second or final survey should be recorded on the affected COTs and in the tract index for any affected abstract land.

### 7. The Final Order

After the second or final survey is filed, a second hearing is held and the final order is issued. The order has to contain certain required information identifying the land affected, which boundary lines were determined, that the boundaries were marked by judicial landmarks as shown by the second survey, and that the legal description makes appropriate reference to the judicial landmarks.



#### PRACTICE TIP

Again, practitioners should inquire who is responsible for obtaining and recording a certified copy of the order on the affected COTs and the tract index for abstract land if applicable. In some counties, the examiner's office handles these tasks.

## § 12.7 JURISDICTION OF TORRENS COURT

When Minnesota Statutes chapters 508 or 508A (where applicable) specify a procedure necessary to take some action regarding Torrens land—such as the situations where proceedings subsequent are required as discussed in section 12.4, *supra*—parties and district courts must follow that procedure.

In other words, if the requested relief ultimately alters a COT or a document reflected thereon, either by recital or memorial, the party seeking relief has to commence a proceeding subsequent. This is because proceedings subsequent provide statutory authority for a resulting order to require the registrar to perform some act. Absent a proceeding subsequent where required, the district court lacks jurisdiction over the registrar and the registrar can ultimately refuse to give effect to a district court order if the required procedure was not followed. This is because the Torrens system is designed to conclusively establish matters of ownership. The 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.

**COMMENT**

It is critically important that a party follow the correct procedure when dealing with Torrens property. Presumably, a lawyer would not want to have to tell a client that the \$20,000 he or she spent litigating a quiet title action, for example, was essentially wasted because the matter should have been commenced as a proceeding subsequent but was not; or that necessary parties were omitted and, therefore, the registrar is refusing to record the district court's order.



# **SUPPLEMENT 2**

# **CLEARING TITLE DEFECTS**

*– Using Non-Judicial Means, or Reformation, Quiet Title  
and Partition Actions, and Even Registration of Title –*

2024 Real Estate Institute

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## Introduction

What is considered a title defect has changed over time. This is in large part due to a shift between “marketable title” and “insurable title.” What was once considered a prudent examination of title may now be deemed inefficient or unreasonable based on the existence of title insurance and the demands of the industry.

Regardless, when title defects are identified (likely based on application of the Minnesota Title Standards) there are various methods of resolving them. Available options range from collaborative and cooperative involvement of the parties, to contested litigation. Selecting the right method involves identifying the appropriate and necessary parties, and determining whether those parties can<sup>1</sup> or will cooperate in resolving the issue.

*PRACTICE TIP:* the Minnesota Title Standards are no longer updated in paper form, but are available online to members and the general public on the Minnesota State Bar Association’s website. These should be a staple in any title examiner or real estate attorney’s toolbox.

## Clearing Title Defects: Non-Judicial Means

### A. *Deeds and Releases*

Quit claim deeds, which pass any claim, title or interest the grantor may have in real property, are one of the most common ways to resolve title matters. Quit claim deeds are typically used when the grantor is cooperative, and essentially act as a release of any interest the grantor may hold in the property. Quit claim deeds merely convey whatever interest a person may have in certain property; if a person has no interest in the property that is the subject of a quit claim deed,

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<sup>1</sup> Oftentimes title defects are caused or exacerbated by the death of a party, and it may not be possible for the appropriate party to voluntarily participate in resolving the matter. This is one scenario where judicial means may be necessary.

the result would be a conveyance passing no interest at all, yet the quit claim deed would serve to document that the grantor has no further interest in the property (unless later acquired).

*PRACTICE TIP:* one important thing to remember is that quit claim deeds do not include after-acquired title, so additional express language must be added in order for a quit claim deed to be effective to convey after-acquired title to the grantee.

Quit claim deeds are commonly used to correct errors in legal descriptions and names, effect boundary line adjustments, transfer possessory rights (e.g. to terminate rights under a contract for deed),<sup>2</sup> and to address stray heirship or other interests. It is recommended that deeds used for these purposes include a recitation of the reason for the deed (e.g. “This deed is given to correct an error in the legal description contained in Document No. 12345.”). This makes it easier for anyone examining title to understand the reason for the deed.

*PRACTICE TIP:* there are multiple Minnesota Uniform Conveyancing Blank (“UCB”) and Editable Conveyancing Blank (“ECB”) forms available through [practicelaw.org](http://practicelaw.org) and the Minnesota Department of Commerce website, including various quit claim deed forms (e.g. individual to individual, business to individual).

In Minnesota, a married individual’s spouse must execute a conveyance of a homestead property. See Minn. Stat. § 507.02. Because there is no definitive way to identify of record whether a property is homestead (absent a court order determining a property is non-homestead), all conveyances in Minnesota should include a spouse’s signature. This includes quit claim deeds given to correct any title defects.

Similar in concept to a quit claim deed, a party may also execute a release. Releases are typically utilized in situations where a party holds a specific non-fee interest in the property, where

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<sup>2</sup> Another way to address a title defect based on a contract for deed is through a statutory cancellation under Minn. Stats. § 559.21. This process is necessary if the vendee will not cooperate by executing a deed.

a party encumbered another's property without permission of the owner but pursuant to a legal right to do so, or where a party obtained an interest in another's property by operation of law. A release acts to willingly relinquish or terminate an interest in property. Common types of releases include a release of a mortgage (not to be confused with a satisfaction of a mortgage), a release of a marital lien resulting from a dissolution of marriage, a release from a mechanic's lien, discharge of a notice of *lis pendens*, and a release from a judgment lien.

*PRACTICE TIP:* note that while a judgment issued in Minnesota automatically becomes a lien against abstract real property located in the State and owned by the debtor, that is not the case with Torrens property. A judgment must be memorialized on the Certificate of Title to affect Torrens land.

*PRACTICE TIP:* prior to requesting a release or other corrective instrument or action, determine whether there is a basis to disregard a record interest. For example:

1. A mortgage release or satisfaction is not necessary if a mortgage can no longer be enforced pursuant to Minn. Stats. § 541.03;
2. A mechanic's lien is no longer enforceable after 1 year pursuant to Minn. Stats. § 514.12, subd. 3;
3. A *lis pendens* can be disregarded after 10 years pursuant to Minn. Stats. § 557.021;
4. A judgment lien can be disregarding after 10 years pursuant to Minn. Stats. § 548.09.

If there is a statute and/or a Minnesota Title Standard that provides that a record interest can be disregarded, the interest should not constitute a title defect.

*COMMENT:* many situations can be addressed by more than one possible solution, even if the overall effect is slightly different. For example, a quit claim deed and a release of a marital lien would both operate to terminate any interest held by the grantor under a marital lien. The quit claim deed is broader, conveying any interest held by the grantor, while a release of a marital lien would only release the grantor's interest under the marital lien. Both would be effective to terminate the marital lien, however.

#### B. *Lot Split/Lot Line Adjustment*

While lot splits and lot line adjustments are effected by a deed, it is important to determine what action, if any, is necessary to obtain approval in advance of the execution and recording of a

deed. Certain governmental entities treat a lot split or lot line adjustment as a form of subdivision under the zoning authority's subdivision ordinance, requiring approval (typically in the form of a stamp on the deed) before a document giving effect to the split or adjustment will be accepted for recording. Obtaining that approval may require the completion of an application, payment of a fee, and other prerequisites such as provision of a survey, payment of taxes, site visits by officials, and approval of the Registrar of Titles or Examiner of Titles (if the land is Torrens).

*PRACTICE TIP:* be aware of any mortgages against the property, the acceleration clause of which may be triggered by a split/adjustment of lot lines. A split or adjustment will likely include modifications to existing mortgages and/or partial releases of any existing mortgages. Depending upon the lender, this can be a time-consuming and expensive process. Also be aware that real estate taxes will need to be paid in full prior to recording of a deed effecting the split.

### *C. Easements*

Similar to deeds, easements are also documents that can be voluntarily entered into in order to address title defects. An easement is a right held by an individual to use land of another for a special purpose, typically for access (ingress to and egress from property, both pedestrian and vehicular), utility purposes, and to address encroachments.

One should consider including specific provisions in easement documents, such as those addressing construction and maintenance costs, liability/indemnification, parking, exclusivity, and other key terms. It is also important to identify any land benefitted by the easement, as without a description of the benefitted land the easement will be considered an in gross easement (versus an appurtenant easement), which may result in unintended consequences.

*PRACTICE TIP:* an in gross easement is an easement that is not tied to specific benefitted land, rather it runs in favor of a specific person or entity. This author routinely runs across easements that likely were intended to be appurtenant but failed to identify the benefitted land. This is unfortunately common when an easement is created by a deed rather than a separate easement and maintenance agreement (e.g. "Reserving to grantor an easement over the northerly 16 feet of the land conveyed."), when the grantor reserves an easement for access to adjacent land, but does not actually identify the adjacent land.

As discussed above, in Minnesota a married person's spouse must sign any conveyance of real property. This includes easements. Similarly, while it is not required in order to bind the grantor or for recording purposes, best practice is to obtain a consent and joinder from any lenders or lienholders of record. This is so that in the event of a foreclosure, the foreclosing interest holder is bound by the easement. Absent consent, the foreclosing interest holder (assuming their interest was of record at the time the easement was granted and recorded), could be found to not be bound by the easement.

It is also best practice to avoid blanket easements (easements with no confined location on the premises). Blanket easements can make title unmarketable, as the rights of the easement holder would directly conflict with the rights of the fee owner/occupier of the premises. A confined location for an easement does not have to be exact, but can be something like a "corridor." For example, granting an easement over the "northerly 16 feet of" the premises is sufficient. You can further dictate terms with respect to width of the driving surface, etc., within the corridor. In connection with locating the easement, it is always beneficial to include a survey. While clients may not want to incur the expense of a survey, it can be very helpful to have that information and a confined legal description, especially in the event the property is later split (the survey would be helpful in this scenario in order to more easily determine which parcel(s) is/are affected by the easement after the split.

#### *D. Re-recorded Documents*

Most documents, including but not limited to deeds, mortgages, and easements, can be corrected and re-recorded if an error is discovered. If this is done, the specific correction should be expressly identified (e.g. "This mortgage is being re-recorded to correct an error in the legal description contained in the mortgage originally executed between the parties on January 1, 2022,



recorded January 2, 2022 in the office of the St. Louis County Recorder as Document No. 12345.”). Additionally, the original parties to the document should sign and their signatures should be notarized. Corrective documents may not be accepted in some counties for various reasons (e.g. a deed that originally conveyed the entirety of Lot 1, followed by a corrective deed signed only by the original grantor for “the east half of Lot 1,” would generally not be accepted in Torrens because the grantor has already conveyed the entirety of Lot 1. That outcome may be different if the grantees also sign. It is also possible that other interests and encumbrances may have affected the property between the time the original document was recorded and the time the corrected document was recorded, possibly leading to priority issues.

*E. Affidavits/Directives/Registrar’s Corrective Instrument/A/K/As and the like*

Another method of addressing certain title defects is by the use of Affidavits of Identity or Non-Identity. See Minn. Stat. § 507.29. Typically, these Affidavits will identify the instrument at issue (e.g. “Affiant is the grantee named as Jane Doe in that certain Quit Claim Deed dated January 1, 2022, recorded January 2, 2022 in the office of the St. Louis County Recorder as Document No. 12345.”), and the error (e.g. “My last name was incorrectly identified in Document No. 12345 as Doe, but my true and correct last name is Dough.”). It is best practice, and may be required in Torrens, to attach evidence (e.g. a copy of a driver’s license) supporting the assertions contained in the Affidavit.

*PRACTICE TIP:* best practice is to contact the recording office in the county where the Affidavit will be recorded to determine if they have any specific guidelines, especially if you are dealing with Torrens property.

If you are dealing with Torrens property, and based on the Affidavit, the Examiner of Titles will issue a Directive to allow acceptance of a document that conflicts with the certificate of title, or to amend the face of a certificate of title consistent with the Affidavit.

An Examiner's Directive can also be useful to clear up certain title defects affecting Torrens property. Minn. Stat. §§ 508.71 and 508A.71 describe certain circumstances in which a Directive is appropriate. There are also several statutes within Chapter 508 and 508A that require Directives to obtain new certificates of titles or drop memorials in certain situations (e.g. following a mortgage foreclosure by action, following cancellation of a contract for deed when a legally sufficient notice of cancellation has been of record on a certificate of title for at least 5 years, following a tax-forfeiture when a certificate of forfeiture has been of record on a certificate of title for at least 10 years, etc.).

The process to request and obtain a Directive, as well as the cost to do so, varies widely between counties.

*PRACTICE TIP:* contact the county in which the land is located to determine the process and cost to obtain a Directive.

Minn. Stats. §§ 508.71 and 508A.71 (where applicable) also provide for a Registrar's corrective instrument. Specifically, the Registrar of Titles can issue an instrument correcting any clerical error or omission made by the Registrar's staff in producing a certificate of title. This is a simple method to use when appropriate, and can avoid a much costlier fix. For example, if a vesting deed identifies the grantee as "John F. Doe" and a certificate of title was creating showing "John E. Doe" as the owner, a Registrar's corrective instrument would be appropriate.

*PRACTICE TIP:* if there appears to be an error on a certificate of title, always check the vesting document to see if the error was in the document itself or resulted from the production of the certificate of title or some memorial thereon.

In some situations, the use of "a/k/a" and "f/k/a" may also be appropriate. For example, if the vesting deed or certificate of title show "Jane Doe, a single person," and Jane has now married, a conveyance out from Jane (and spouse) could state "John Buck and Jane Buck, f/k/a Jane Doe,

married to each other.” This should be sufficient to address the name variation without requiring additional documentation. The use of “f/k/a” and “a/k/a” can be disfavored, however, as there may be a need for more documentation to explain the variance (e.g. a divorce decree).

### **Clearing Title Defects: Judicial Means**

#### *A. Reformation*

Reformation, in lay terms, is asking the Court to amend an agreement because it is inconsistent with the parties’ intent. This type of an action can be appropriate to address legal description issues, the omission of land from a deed or other recorded document, tenancy status (e.g. joint tenants vs. tenants in common), marital status errors (e.g. a grantor being incorrectly identified as married), and other title defects. A reformation action is a civil action that is handled similar to a quiet title action (discussed below), and includes the issuance, service and filing of a summons and complaint.

A party seeking reformation must prove that: “(1) there was a valid agreement between the parties expressing their real intentions; (2) the written instrument failed to express the real intentions of the parties; and (3) this failure was due to a mutual mistake of the parties, or a unilateral mistake accompanied by fraud or inequitable conduct by the other party.” *Nichols v. Shelard Nat’l Bank*, 294 N.W.2d 730, 734 (Minn.1980). The plaintiff must establish these elements through “evidence which is clear and consistent, unequivocal and convincing.” *Id.*; see also *Leamington Co. v. Nonprofits’ Ins. Ass’n*, 615 N.W.2d 349, 354 (Minn.2000).

At the end of a successful reformation action, the Court should issue an order expressly identifying the mistake or fraud and the outcome of the action. The order should include a legal description so that it will be recordable with the County Recorder’s office.

*PRACTICE TIP:* if the subject property is Torrens, you should communicate with the Examiner of Titles Office prior to commencing any sort of court action, as it will likely be necessary to handle the matter through a proceeding subsequent to initial registration.

*B. Action to Determine Adverse Claims/Quiet Title/Declaratory Judgment*

An action to determine adverse claims, also commonly called a quiet title action, is another court action that is often used to clear up title defects with respect to abstract property.

The authority for a quiet title action comes from Minn. Stats. § 559.01, which provides:

Any person in possession of real property personally or through the person's tenant, or any other person having or claiming title to vacant or unoccupied real property, may bring an action against another who claims an estate or interest therein, or a lien thereon, adverse to the person bringing the action, for the purpose of determining such adverse claim and the rights of the parties, respectively.

A common basis for a quiet title action is adverse possession, and possession alone is a sufficient basis to commence a quiet title action against anyone claiming an interest in the property.

A quiet title action proceeds similar to any other civil matter, although the pleading requirements are less formal than the pleading requirements for many other civil actions. The action is still commenced by a complaint and service of a summons, which as discussed below is oftentimes required to be published in a legal newspaper to obtain jurisdiction over unnamed parties.

The necessary defendants in a quiet title action include anyone who may have or claim an interest, estate or lien adverse to the plaintiff. This includes interests that do not appear of record. It is necessary for a plaintiff in a quiet title action to do their due diligence in locating defendants, as many quiet title actions include known and unknown parties (e.g. heirs of record owners, which may be able to be presumptively identified based on an obituary or other information, but without a formal probate and determination of heirship, unknown heirs of deceased parties should be named, necessitating publication of the summons). One cannot simply name a party known to be

deceased as a defendant; rather the plaintiff must conduct appropriate research to determine necessary defendants.

It is not uncommon for a quiet title action to result in a default judgment, particularly when the basis of the action is an old title defect (e.g. an unconveyed interest or a lost deed). Some actions are contested, however, which is more common with an action based on adverse possession. After determination of the claims, the Court will issue Findings of Fact, Conclusions of Law, Order for Judgment and Judgment (or a similar document), which if the plaintiff is successful should include the legal description of the property, a determination that the plaintiff is the owner of the claimed interest, and that the defendants have no right, title or interest in or to the premises. The document is then recorded in the office of the County Recorder.

*PRACTICE TIP:* for an excellent discussion of the mechanics and requirements of a quiet title action, including sample materials, see the Minnesota Real Estate Titles Deskbook, Actions Pertaining To Abstract Land, Updated 2023, Chapter 10, Actions Pertaining to Abstract Land by Daniel D. Maddy.

A person with an interest in land may also bring a claim to determine boundaries under Minn. Stats. § 559.23. The process is similar to a quiet title action, with certain distinguishing features. The most significant is the establishment of judicial landmarks. Minn. Stats. § 559.25 provides that the judgment shall locate and define the boundary lines involved by reference to well-known permanent landmarks, and, if it shall be deemed for the interest of the parties, the court may direct a competent surveyor to establish judicial landmarks.

If a boundary line is in common with Torrens land, the determination of the boundary must be made pursuant to Minn. Stats. § 508.671. This means that the action should be commenced as a proceeding subsequent. With Torrens property, the establishment of judicial landmarks is mandatory (Minn. Stats. § 508.671 provides that the court “shall” fix and establish the boundaries and direct the establishment of judicial landmarks, as opposed to Minn. Stats. § 559.25, which

provides that the court “may” establish judicial landmarks if “deemed for the interest of the parties”).

A party may also bring a declaratory judgment action under Minn. Stats. Chapter 555. Minn. Stats. § 555.01 provides that a court shall have the power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. A declaratory judgment action can be either affirmative or negative in form and effect, and have the force and effect of a final judgment or decree. The plaintiff in a declaratory judgment action can be any person interested under a deed, will, written contract, or other writing constituting a contract, whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, and may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise.

### *C. Partition Action*

Partition actions are statutory creatures governed by Chapter 558 of the Minnesota Statutes. Minn. Stats. § 558.01 provides that when two or more persons are the owners of real property as joint tenants or tenants in common, one or more of those individuals can bring an action for partition of the real property, or for a sale of the real property if partition cannot be had without great prejudice to the owners. Partition is a physical division of the land; if the land cannot be physically divided without great prejudice (e.g. the property is a residential platted lot with a dwelling located on the majority of it), then the property can be sold. In this author’s experience, partitions are typically “messy” and oftentimes involve individuals who are related (e.g. brothers and sisters who inherit property) or had some form of relationship that may have soured (e.g. ex-significant others). Due to the relationships and motivations sometimes driving partition actions, these can be difficult proceedings to litigate.

A partition action is commenced by the service of a summons and verified complaint, which is filed with the court, and recording of a notice of pendency. In a partition action, the court appoints three disinterested citizens of the county as referees to make partition and set off the shares of the person's interest as determined by a judgment after evidence or by the written stipulation of the parties. The court may also employ a surveyor to assist in describing the various portions of the property. The cost of the referees and any surveyor employed by the court is to be paid by the plaintiff, and may be allowed as part of the charges.

There is currently a push to overhaul the Minnesota partition statutes, specifically to modernize various section, amend various sections to conform to common practice, and to codify new law to incorporate well-established case law.

#### *D. Registration of Title*

Usually title to abstract land is registered under Chapter 508 or Chapter 508A because of title defects disclosed by an examination of the abstract of title (while there are other benefits to registering title, they are not necessarily relevant to the context of this presentation).

The process of registering title to land under the Torrens system is governed by Minn. Stats. Chapter 508 (judicial proceedings to register title) and Chapter 508A (non-judicial proceedings to register uncontested title, where Chapter 508A has been adopted by a county board).

With a judicial proceeding under Chapter 508, the action is commenced by the filing with the district court of a signed and verified Application. If an owner is married, their spouse must join the Application or sign an Assent, or the spouse must be made a defendant. See Minn. Stats. §508.05. A certified copy of the Application is then filed with the County Recorder to act as a Notice of Lis Pendens.

An Applicant is required to file with the court an abstract of title or other evidence of title satisfactory to the Examiner of Titles (while the statutes previously required an abstract of title, there has been movement away from requiring a formal abstract and Minn. Stats. §§ 508.11 and 508.13 were recently amended to allow for an abstract of title or other evidence of title satisfactory or acceptable to the Examiner).

The Examiner of Titles reviews the title evidence and prepares a Report identifying title defects and encumbrances affecting the property, as well as the necessary defendants, which is then filed with the district court. See Minn. Stats. § 508.13 and Minn. Gen. R. Prac. 205. Applicant is required to file a Petition for Summons (identifying the named defendants and their addresses), and the court then issues an Order for Summons and a Land Title Summons. The Summons is served by the Applicant in the same manner as a summons in other civil actions. See Minn. Stats. § § 508.15, 508.16, and Minn. Gen. R. Prac. 205.

Depending upon the county, the hearing is either held by and in front of the Examiner of Titles (most often in counties that employ a full-time examiner), or a Judge of the district court. Most hearings proceed on a default basis, but some are contested.

After the hearing, the court will generally issue an Order and Decree of Registration, which binds everyone with any interest in the property registered. See Minn. Stats. § 508.22. Once the Order and Decree of Registration is issued, a certified copy is recorded with the Registrar of Titles. Minn. Stat. §508.23.

*PRACTICE TIP:* While a certified copy is not required by statute or rule to be recorded with the County Recorder, it is good practice. While the Application should be sufficient notice that a Torrens action is pending, it does not show that the process was completed. Recording the Final Order and Decree in the Abstract records is clear evidence to anyone searching the records that they need to move to the Torrens system.



Non-judicial proceedings resulting in a Certificate of Possessory Title (“CPT”) under chapter 508A may be an option if there are no significant title defects to adjudicate and if the process has been adopted in the subject county (Minn. Stats. §508A.01 requires the county board to adopt a resolution authorizing use of CPTs upon the written request of the County Registrar of Titles). The process is administrative rather than judicial, is generally less expensive than a registration action under Chapter 508, and is a quicker way to cure uncontested title defects. After 5 years, a CPT has the same effect as a judicial registration.

The limited nature of a CPT registration (being only for uncontested titles, as well as only being available in certain counties) makes this a less likely method for curing certain title defects. The process itself has some similarities to a Chapter 508 proceeding, including an Application (although it is filed with the Examiner of Titles, not the Court), the issuance of a Report, and notice to interested parties (although notice is by mail versus issuance and service of a Summons).

After notice is given and the appropriate time period has passed, if no objection is made, the Examiner of Titles issues a Directive to the Registrar of Titles to issue a CPT. The Directive lists all the recitals and memorials that should appear on the first CPT. The Directive is then recorded with the County Recorder and the Registrar of Titles, and the Registrar issues the CPT. Prior to issuance of the Directive, the Applicant may withdraw the Application, or convert a CPT proceeding to a Chapter 508 registration, pursuant to Minn. Stat. §508A.21.

*E. Proceedings Subsequent*

Proceedings subsequent to initial registration affect Torrens property and involve the commencement of a district court action and the resulting issuance of a court order directing some alteration to a certificate of title or certificate of possessory title. Minnesota Statutes §§ 508.71, Subd. 2 and 508A.71, Subd. 2, provide a list of bases for a registered owner or other party in

interest to commence a proceeding subsequent (e.g. that registered interests have terminated and ceased, or that new interests not reflected on the certificate of title or certificate of possessory title exist).

There are also some situations in which a proceeding subsequent is statutorily required (e.g. obtaining a new certificate of title or certificate of possessory title following a mortgage foreclosure by advertisement pursuant to Minn. Stats. §§ 508.58, Subd. 1 and 508A.58, Subd. 1; to obtain a new certificate of title following a forfeiture evidenced by a county auditor's certificate of forfeiture or auditor's certificate of sale or state assignment certificate that has been memorialized upon a certificate of title for less than 10 years pursuant to Minn. Stats. § 508.67, Subd. 2; to reform a certificate of title or documents memorialized thereon; or to transfer title under a contract for deed where a satisfying deed has been lost or cannot be obtained).

The procedure for a proceeding subsequent varies by county. As an overview, however, the process generally includes the filing of a petition, the issuance of an Examiner's Report, issuance and service of an order to show cause, submission of required proof, a hearing, and issuance and recording of an order.

# **SUPPLEMENT 3**

SUPPLEMENT 3

# TORRENS TITLE HOTSPOTS

**Kimberly  
Brzezinski**

*St. Louis County  
Examiner of Titles*

# MN LAND RECORDS SYSTEMS

- 2 systems of land records
  - Torrens or registered land
    - Chapters 508/508A, Rules 200-222 General Practice
  - Abstract or unregistered land
    - Chapter 386



# ABSTRACT

- **“Abstract land”** is all land not registered (the “default”)
- **County Recorder** (as opposed to Registrar of Titles)
- **Abstract of Title** (theoretically exists)
  - **Compilation of all instruments affecting the land, all the way back to the patent from the US Government**
- **Abstracts are becoming more uncommon and difficult to obtain, so many people rely on searches less than all the way back to the patent or on online records to determine ownership of abstract land**



# TORRENS

- “Torrens land” (also referred to as “registered land”) is court adjudicated title
- Governed by specific statutes (Minn. Stat. Chpt. 508/508A)
- Certificate of Title replaces abstract of title
- COT should reflect all interests and matters affecting title
- All instruments are reviewed for accuracy/effectiveness prior to filing (versus reviewed only for recordability with abstract)
- Examiner involvement

# ADVANTAGES OF REGISTRATION

- Certainty of Title
- Abstracting/Title Evidence determined by Examiner
- Future protection against adverse possession
- Establish Boundary with certainty using Judicial Landmarks
- 6 Month statute of limitation
- Examiner's expertise
- Easier and cheaper to review status of title



# EXAMINER OF TITLES

- **Appointed by District Court Judges**
- **More populous counties have salaried examiners**
  - Hennepin, Anoka and St. Louis counties = no fees
  - Ramsey and Washington charge a fee despite being salaried
  - Fee goes toward county expenses, not directly to Examiner
- **Other counties use part-time, fee based examiners**

# REGISTRAR OF TITLES

- The County Recorder is also the Registrar of Titles (per Minn. Stat. § 508.30)
- The Registrar's job is to review documents presented for recording and determine whether they meet the legal requirements for recording
- The requirements for Torrens documents are different than the requirements for abstract documents

## Staff Copy

District Court No. 6132

Certificate of Title Number: 335297.0

File No. 956419.0 registered April 20, 2015

LINC Number: 51223

Transfer from Certificate Number(s): all of 325149.0

Volume: 0

Originally registered Jul 06, 1971 Volume 517 Page 388.0

Page: 0

### REGISTRATION

STATE OF MINNESOTA }  
COUNTY OF ST. LOUIS } ss.

#### This is to certify that

**BRIAN J THOMPSON**, [REDACTED] City of HERMANTOWN, County of ST LOUIS, State of MN

is now the owner of an estate IN FEE SIMPLE

of and in the following described land situated in the County of St. Louis and State of Minnesota, to-wit:

#### Lot 2 Block 1 FOXBORROW ADDITION

EXCEPT all minerals and mineral rights.

SUBJECT to an easement for highway purposes over and across the land

with the right and permission to go upon adjacent lands for proper

construction of highways, slopes, fill side ditches and offtake

ditches recorded in the office of the Register of Deeds in Book 679

of Deeds page 689.

Subject to encumbrances, liens, and interest noted by memorial underwritten or endorsed hereon: and subject to the following rights or encumbrances subsisting,

as provided in laws 1905, chapter 305, section 24, 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.

That the said

BRIAN J THOMPSON, is of the age of 18 years or older is not married and is under no legal incapacity.

In witness whereof, I have hereunto subscribed my name and  
affixed the seal of my office, this April 20, 2015

MARK A. MONACELLI  
Registrar of Titles

in and for the County of St. Louis and State of Minnesota

By M BINDER, Deputy

## Staff Copy

### MEMORIAL

of Estates, Easements or Charges on the Land described in the Certificate of Title hereto attached.

DOCUMENT NUMBER	KIND OF INSTRUMENT	DATE AND TIME OF REGISTRATION	INSTRUMENT DATE AND AMOUNT	SIGNATURE OF REGISTRAR
708820.0	STATE DEED	10/02/2001 09:44AM	12/18/1998	MARK A. MONACELLI By M RAIC Deputy
RUNNING IN FAVOR OF: ROBERT & JOANN DAEDA AS JOINT TENANTS SUBJECT TO EASEMENT FOR LAVAQUE RD OVER EAST 50 FEET HEREIN AFFECTS OTHER REG PROP ALSO				
751429.0	AGREEMENT	06/11/2003 11:16AM	02/10/2003	MARK A. MONACELLI By R GRIFFITH Deputy
RUNNING IN FAVOR OF: CITY OF HERMANTOWN MN A MN STATUTORY CITY DEVELOPMENT AGREEMENT FOR DETAILS SEE DOC NO 751429. AFFECTS OTHER REG PROP ALSO.				
908855.0	MORTGAGE	12/23/2011 3:31 PM	12/16/2011	281600.00 MARK A. MONACELLI By M. RAIC Deputy
RUNNING IN FAVOR OF: WELLS FARGO BANK NA ORG UNDER USA LAWS				
956420.0	MORTGAGE	04/20/2015 10:58AM	04/15/2015	112000.00 MARK A. MONACELLI By M BINDER Deputy
RUNNING IN FAVOR OF: SUPERIOR CHOICE C U A WI CORP				
956894.0	SATISFACTION OF MORTGAGE	05/04/2015 12:06PM	05/04/2015	MARK A. MONACELLI By M BINDER Deputy
RUNNING IN FAVOR OF: JAMES ROBERT B & JAMES CATHY L SATISFIES DOC NO 908855				
977767.0	MORTGAGE	10/26/2016 10:24AM	10/21/2016	84000.00 MARK A. MONACELLI By M PUTNEY Deputy
RUNNING IN FAVOR OF: DULUTH TEACHERS C U ORG UNDER MN LAWS				
978126.0	SATISFACTION OF MORTGAGE	11/04/2016 10:36AM	10/27/2016	MARK A. MONACELLI By M RAIC Deputy
RUNNING IN FAVOR OF: THOMPSON BRIAN J SATISFIES DOC NO 956420				

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# “MODERNIZING LAND RECORDS”

- The Modernizing Land Records Subcommittee (MLRS) is a subcommittee of the Minnesota State Bar Association’s Real Property Section's Legislative Committee
- The MLRS was authorized to explore ideas for significant reforms to the Minnesota land records systems
- Held listening sessions around the State in the fall of 2017 in order to engage the various stakeholders

# MLRS LISTENING SESSIONS

## ■ Pros of Torrens

- Gives people what they expect – a physical title
- Abstracts are costly and hard to obtain
- Makes surveying easier (easier to find pertinent information)
- Legal descriptions are generally better
- Can generally have high level of confidence in COT
- Easier to link a Certificate of Title to other records (GIS, tax)
- Easy to know who owns the property
- Easier to do plat checking

# MLRS LISTENING SESSIONS

## ■ Cons of Torrens

- Some Certificates of Title have not been maintained properly
- Some counties have little or no Torrens and therefore view it negatively and/or have too little experience dealing with it
- Every county needs an Examiner of Titles
- The process to “Torrens” land is expensive and burdensome
- Differences in the administration and implementation of the Torrens system in MN/variation in Examiner policies
- Costs are expensive for rural counties
- The system is too expensive and complicated
- Title expertise is dying and finding Examiners will become tough
- Can take time to get documents recorded/priority issues from delays

# CURRENT STATUS OF MLRS WORK

- Outcome favored 1 system, more like Torrens than abstract
  - “Torrens Lite”
- Presently, MLRS Subcommittee is vetting a conversion proposal
  - Abbreviated title search
  - 10 year period for examining both COT and abstract records before title matures
  - Additional exceptions for parties in possession and utilities
  - During 10 year period, “missed” interests could be recorded on COT
  - After 10 year period, “missed” interests no longer affect the land but the holder could make a claim against the state general fund
  - Variation: title insurance policy indemnifying state against a successful claim against the state general fund
  - Resources needed to convert
  - Access or boundaries guaranteed?



# REGISTERED LAND SURVEYS

- Minn. Stat. 508.47 allows the Registrar of Titles to require the owner of unplatted registered land, who conveys any part thereof which is not a “full government subdivision, or simple fractional or quantity part of a full government subdivision,” to complete an RLS
- The RLS is essentially a survey that changes the legal description to be more easily understood and less complex
- NOTE: RLS determination is the Registrar’s, not the Examiner’s

# AN RLS TURNS THIS...

All that part of the NW1/4 of the SW1/4, Section 9 Township 58 North Range 14 West of the Fourth Principal Meridian, described as follows:

Beginning at the west one-quarter corner of Section 9 going in a southerly direction along the section line for a distance of 506.41 feet to the point of beginning.

This last described point being 102.63 feet south from the center line of Kensington Drive, this point also being the intersection of a line 100 feet south and parallel to the center line of Kensington Drive and west line of Section 9, thence in a southerly direction along the section line to the southwest corner of the NW1/4-SW1/4 thence easterly on the south line of the NW1/4-SW1/4 to the southeast corner of the NW1/4-SW1/4, thence northerly along the east line of the NW1/4-SW1/4 to the intersection of said east line and the south RIGHT OF WAY line of Kensington Drive, this last described intersection being 100 feet south and parallel to the center line of Kensington Drive; thence southwesterly along the south 100 feet RIGHT OF WAY line of Kensington Drive to the point of beginning and there terminating, containing 37.8 acres, more or less; and

All that part of the NE1/4 of the SE1/4, Section 8 Township 58 North, Range 14 West of the Fourth Principal Meridian, described as follows:

Beginning at the east one-quarter corner of Section 8 and going in a southerly direction along the section line for a distance of 506.41 feet to the point of beginning. This last described point being 102.63 feet south from the center line of Kensington Drive, this point also being the intersection of a line 100 feet south and parallel to the center line of Kensington Drive and east line of Section 8; thence in a southerly direction along the section line to the southeast corner of the NE1/4-SE1/4; thence westerly along the south line of the NE1/4-SE1/4 to the intersection of the east RIGHT OF WAY line of Hampshire Drive, this said intersection being the intersection of RIGHT OF WAY line 33 feet east and parallel to the center line of Hampshire Drive and the south line of the NW1/4 of SE1/4; thence in a northwesterly direction along the east RIGHT OF WAY line of Hampshire Drive to the intersection of the south RIGHT OF WAY line of Kensington Drive, this last described intersection being 100 feet south and parallel to the center line of Kensington Drive; thence in a northeasterly direction along the south 100 foot RIGHT OF WAY line of Kensington Drive to the point of beginning and there terminating. Containing 8.0 acres, more or less.

AND

That part of the NW1/4 of the SW1/4, Section 9; Township 58 North, Range 14 West, described as follows:

Commencing at the west quarter corner of said Section 9; thence South 00 degrees 05 minutes 59 seconds West, along the east line of said NW1/4-SW1/4 a distance of 404.16 feet to the centerline of County Road No. 666 (a/k/a Kensington Drive) and the point of beginning; thence continuing South 00 degrees 05 minutes 59 seconds West, along the said east line a distance of 103.19 feet to the point of intersection with a line drawn parallel and distant 100.00 feet southerly of the centerline of said County Road No. 666; thence northeasterly, along said parallel line a distance of 1414.0 feet to the east line of said NW1/4-SW1/4; thence North 00 degrees 14 minutes 37 seconds East, along said east line a distance of 105.5 feet to the centerline of said County Road No. 666; thence southwesterly, along said centerline a distance of 1414.87 feet to the point of beginning.

# INTO THIS!!

- Tract A, RLS No. XXX



# TAX-FORFEITED LAND

- Minn. Stat. § 508.67
- For Torrens land, there must be an adjudication or “clearing” of the forfeiture
- This can be done by an Examiner’s Directive (if the Auditor’s Certificate of Forfeiture has been memorialized on the COT for at least 10 years)
- If the Auditor’s Certificate of Forfeiture has been memorialized on the COT for less than 10 years, a district court action is necessary
- Specific process varies by county
- Problems with legal descriptions can exist since the tax description often varies from the COT description (even though it theoretically describes the same land)

# PLATS AND CONDOS

- Process varies between counties
- Method of describing/reflecting Torrens vs. abstract land within a plat varies
- NOTE: condos cannot be located on mixed Torrens and Abstract property (Minn. General Rules of Practice 222(e))
- NOTE: if the property is held by a trust (or trustees), a Certificate of Trust and Affidavit of Trustee should be submitted along with the plat and the Examiner will have to certify the documents pursuant to Minn. Stat. § 508.62

# PROCEEDINGS SUBSEQUENT TO INITIAL REGISTRATION

- Action in District Court to Alter an existing Certificate



# WHEN IS IT NECESSARY?

- Mortgage foreclosure by advertisement 508.58 & 508A.58
- Foreclosure of a lien 508.58 & 508A.58
- Tax forfeiture (Auditor's Certificate recorded < 10 years 508.67 subd. 2
- Judicially determine boundary lines 508.67 subd. 2
- Determine an Unregistered Interest/Adverse Claim 508.70 subd. 2 and 508A.70 subd. 2
- Reformation of COT or document
- Transfer pursuant to Contract for Deed w/o the deed
- Delete a Contract for Deed and Cancellation
- Repurchase by less than all record owners following tax forfeiture

# DETERMINATION OF BOUNDARY LINES/USE OF JUDICIAL LANDMARKS

- Minnesota Statutes 508.671
- Practical location of boundaries applies to Torrens property
- Must use this procedure if the property is Torrens or if any abutting property is Torrens
- “Judicial Landmark” - Stone or iron landmark 559.25





# PARTIES

- Owners of adjoining lands
- Lienholders of subject property and adjoining land
- Any person with an interest in the affected land (tenants, easement holders)
- All affected land is Torrens – review COTs
- Some affected land is abstract O&E or other title evidence will be required

# THE PROCESS

- Consult the Examiner prior to drafting and filing the Petition
- Petition complying with 508.671 is filed with District Court
- Certified copy of petition is recorded on each COT affected and with the County Recorder if any abstract property is affected
- Initial survey showing proposed boundaries
- Examiner's Report setting out procedural requirements and parties
- Service on all defendants is by Summons
- Interlocutory Order directing surveyor to place JLMs
- Final Survey is prepared pursuant to interlocutory order
- Certified copies of final order and survey are recorded

# ASK THE EXAMINER/REGISTRAR



# **ATTACHMENT 1**

# Kimberly E. Brzezinski

## Shareholder

218-722-4766

keb@hanftlaw.com

Kimberly Brzezinski concentrates her practice in the area of real estate, including residential, commercial, and boundary and title research and correction matters. She previously served as the Examiner of Titles for St. Louis County. She is a Real Property Specialist certified by the Minnesota State Bar Association and chairs the Real Property Section of the 11th District Bar Association. She is also a member of the MSBA Real Property Section Council and the MSBA Real Property Section Title Standards Committee, as well as a former member of the MSBA Real Property Section Legislative Committee.

Kimberly formerly served on the Board of Directors for the 11th District Bar Association, as treasurer of the Northeast Chapter of Minnesota Women Lawyers, and as chair of the Board of Directors for REA3D (Rails Endowment for Academic, Art and Athletic Development). Additionally, she has taught real property law at the University of Wisconsin-Superior and is a frequent lecturer for Minnesota Continuing Legal Education.

### **Education:**

Bachelor of Arts, University of Wisconsin – Superior

Juris Doctor, William Mitchell College of Law in St. Paul, Minnesota

### **Admissions:**

Minnesota State Bar Association

US Federal District Court Minnesota

### **Professional Associations and Memberships:**

Minnesota State Bar Association (MSBA) – Certified Real Property Law Specialist

MSBA Real Property Law Section Governing Council – member

MSBA Real Property Law Section Title Standards – committee member

11<sup>th</sup> District Bar Association Real Property Section – chair

# **ATTACHMENT 2**

## Kimberly Brzezinski

First name:	Kimberly
Last name:	Brzezinski
Specialization Area:	Real_Property
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