

**INSTRUCTIONS FOR CONDUCTING  
LAND REGISTRATION (TORRENS) PROCEEDINGS  
IN ST. LOUIS COUNTY, MINNESOTA**

TABLE OF CONTENTS

	Page
<b>LAND REGISTRATION PROCEDURES .....</b>	<b>2</b>
<b>REGISTRATION BY COURT PROCEEDINGS .....</b>	<b>2</b>
SECTION 1. OVERVIEW .....	2
SECTION 2. APPLICATION .....	3
SECTION 3. THE ABSTRACT .....	4
SECTION 4. THE EXAMINER'S REPORT .....	5
SECTION 5. THE SUMMONS .....	5
SECTION 6. SERVICE OF PROCESS .....	6
SECTION 7. PROOF OF SERVICE .....	9
SECTION 8. THE HEARING .....	10
SECTION 9. EXAMPLES .....	14

**INSTRUCTIONS FOR CONDUCTING  
LAND REGISTRATION (TORRENS) PROCEEDINGS  
IN ST. LOUIS COUNTY, MINNESOTA**

This manual is intended to be used by attorneys who will draft the documents and take the actions noted in the instructions. Forms commonly used in Torrens proceedings may be found at the Examiner of Titles internet site:

[www.co.st-louis.mn.us](http://www.co.st-louis.mn.us) (keyword: Examiner of Titles)

**LAND REGISTRATION PROCEDURES**

Land in Minnesota may be brought into the Certificate of Title system either:

1. by a Decree of the District Court issued pursuant to Minn. Stat., Chap. 508 (land title registration by court proceedings); or
2. in counties which have adopted Minn. Stat., Chap 508A, by a Directive of the Examiner of Titles (possessory land title registration procedure).  
St. Louis County has not adopted Chapter 508A.

This instruction manual deals with land title registration by court proceedings.

**REGISTRATION BY COURT PROCEEDINGS.**

**SECTION 1. OVERVIEW.**

The following sequence of events occurs in registration proceedings in District Court:

1. The proceedings are initiated by the filing of an **Application**.
2. The Applicant files an **Abstract** of title.
3. The Examiner of Titles issues a **Report** listing the persons who should be joined as defendants in the matter.
4. A **Land Title Summons** is issued, published and served on the defendants.
5. A **Hearing** is held, after which the Court issues its **Order and Decree of Registration**.
6. A certified copy of the Order and Decree of Registration is filed with the Registrar of Titles who issues a **Certificate of Title**.

## SECTION 2. THE APPLICATION.

The Application must contain the information required by Minn. Stat. §508.03. The St. Louis County Examiner of Titles office provides Application forms for (a) Individual, (b) Joint Tenants, (c) Corporation and (d) Business Entity applicants which an applicant may use. The following suggestions apply to all of the forms.

**1. Name as Applicants all the fee owners of the land being registered.**

The Applicant may be the record owner of the land, or may be a person having a claim of title based on such matters as adverse possession, unrecorded deed or inheritance.

Owners of separate tracts of land may join in one application. Minn. Stat. §508.08, Subd. 2.

**2. Insert a “good” description in the Application.**

An ambiguous or indefinite description should not be used in the Application even if it has appeared in deeds in the Applicant’s chain of title.

It may be advisable to request the assistance of the Examiner of Titles in preparing the form of the description. The Examiner may suggest or require that a survey of the property be submitted in certain cases. Minn. Stat. §508.11.

If the land is described by metes and bounds and borders on a public road, consider describing the center line of the road as a boundary line.

The description cannot conflict with the description of adjoining registered (Torrens) land.

Any number of tracts of land owned by the same person may be included in one application. Minn. Stat. §508.08, Subdivision 1.

**3. State whether or not the Applicant wishes to have the boundary lines adjudicated in the proceeding and marked by the placement of judicial landmarks.**

If placement of judicial landmarks is requested, the procedures in Rule 211, Minn. Gen. R. Prac. and Minn. Stat. §559.25 will be followed. [See paragraphs 5 and 9 of Section 8. The Hearing.]

It is not practical to monument certain boundary lines, such as shore lines.

**4. Consider including the written assent of any person having an interest or claim in the land being registered.**

The assenting person will not have to be served with the summons in the matter.

The Assent must be acknowledged. Minn. Stat. §508.06.

The Individual Application form provides a place for the Assent of the Applicant’s spouse.

**5. Submit the executed Application to the Examiner of Titles for approval, along with the following fees: \$320 payable to the District Court Administrator; and \$46 payable to the County Recorder.** Rule 202, Minn. Gen. R. Prac. and Minn. Stat. §§357.021 and 357.18 [July 1, 2005].

Once the Application is approved, the Examiner will deliver it to the Deputy Court Administrator in the Examiner’s office who will open a District Court file and file the Application. The Deputy Court Administrator will also make a certified copy of the Application and file the certified copy with the County Recorder. Minn. Stat. §508.11.

**6. If the Applicant has requested that boundary lines be marked by the placement of judicial landmarks, also submit for filing a survey of the land.**

The survey should locate the boundary lines by reference to “well-known permanent landmarks.” Minn. Stat. §559.25. Typically, the landmarks will be section corners maintained by the St. Louis County Surveyor pursuant to Minn. Stat. §381.12. The Applicant’s surveyor may contact the St. Louis County Surveyor or the Examiner of Titles for guidance in the selection of appropriate landmarks.

The survey should contain the land description as stated in the approved Application and a certification by a licensed surveyor similar to the following:

To (name of client) (name of others):

This is to certify that this map or plat and the survey on which it is based were made in accordance with “Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys” jointly established and adopted by ALTA/ACSM and NSPS in (year), and includes items 1, 8, and 11(a) of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA, NSPS, and ACSM and in effect on the date of this certification, undersigned further certifies that [Surveyor to complete certificate with the appropriate ONE of the following three phrases]

- the Positional Uncertainties resulting from the survey measurements made on the survey do not exceed the allowable Positional Tolerance.
- the survey measurements were made in accordance with the “Minimum Angle, Distance, and Closure Requirements for Survey Measurements Which Control Land Boundaries for ALTA/ACSM Land Surveys.”
- the proper field procedures, instrumentation, and adequate survey personnel were employed in order to achieve results comparable to those outlined in the “Minimum Angle, distance, and Closure Requirements for Survey Measurements Which Control Land Boundaries for ALTA/ACSM Land Title Surveys.”

Date; \_\_\_\_\_

(Signed) \_\_\_\_\_

Registration No. \_\_\_\_\_

<http://www.acsm.net/alta.html>

**7. If the Applicant is not a resident of Minnesota, prepare an Appointment of Agent for Nonresident Applicant, obtain the Applicant’s acknowledged signature and file the document with the County Recorder.** Minn. Stat. §508.07.

### SECTION 3. THE ABSTRACT

**File with the Deputy Court Administrator in the Examiner's office an Abstract of title to the land described in the Application.** Minn. Stat. §508.11.

The required contents of the abstract are specified in Rule 203, Minn. Gen. R. Prac.

The Abstract should be certified to the description shown at paragraph C. of the Application.

The date of the Abstract certification should be after the date of recording of a certified copy of the Application; or

### SECTION 4. THE EXAMINER'S REPORT.

After the abstract has been filed, the Examiner of Titles will conduct an examination and issue a report. The Report will include the Examiner's opinion on the title, the names of parties to be made defendants, and recommended evidence and findings to establish title in the Applicant. A copy of the Report will be sent to the Applicant's attorney. Minn. Stat. §508.13. Rule 205, Minn. Gen. R. Prac.

### SECTION 5. THE LAND TITLE SUMMONS.

The procedures for issuance of a Summons in a registration proceeding are governed by Minn. Stat. §§508.15 and 508.16, and are different from typical civil proceedings. The St. Louis County Examiner of Titles office provides forms for (a) Petition and Order for Summons and (b) Land Title Summons, which the applicant may use.

**1. Prepare the Petition and Order for Summons. In the Order for Summons list the names and addresses of each person recommended as a defendant in the Examiner's Report, along with the names and addresses of other parties which the Applicant deems to be necessary.** Minn. Stat. §508.15.

**List each defendant's name and address individually, even if two or more defendants are married or related to each other or have the same address.**

**Make a diligent effort by reasonable inquiry and search to ascertain the defendants' addresses. Rule 205, Minn. Gen. R. Prac. If a defendant's address cannot be ascertained, list the address as "unknown."**

**If a person recommended as a defendant in the Examiner's Report is deceased and the person's heirs have been determined by a Probate Court, list the names and addresses of the heirs in lieu of the deceased person. However, if there has not been a determination of heirs, and then list the names and addresses of known heirs which you have ascertained and, in addition, insert in the list of defendants "the unknown heirs of \_\_\_\_\_, deceased" and state the address as "unknown."**

**Do not presume that a person is deceased. If the address of a person, even a very old person, cannot be ascertained, state the address as “unknown” in the Order for Summons unless you have evidence that the person is deceased.**

[See paragraph 3 of Section 8. The Hearing, regarding Findings in the Order and Decree of Registration.]

**Sign and verify the Petition for Summons.**

The Petition is executed by the Applicant’s attorney (not by the Applicant).

**2. Prepare the Land Title Summons. List the names of the defendants and insert the description of the land being registered as shown in the Examiner’s Report.**

The defendants’ names should be listed sequentially as they appear in the Order for Summons and be separated by semicolons. The defendants’ addresses are not included in the Land Title Summons.

**3. Submit the Petition and Order for Summons and the Land Title Summons to the Examiner of Titles office for approval.**

After the Petition and Order for Summons has been approved, the Court Administrator will obtain a judge’s signature on the Order for Summons and will file the Petition and Order for Summons. The Court Administrator will issue the Land Title Summons and mail or deliver a copy to the Applicant’s attorney.

## **SECTION 6. SERVICE OF PROCESS.**

Notice is given and jurisdiction is obtained in a registration proceeding by service of the Land Title Summons. The Application is not served (except in the case of service on the United States). Minn. Stat. §508.16.

**1. Publication of the Land Title Summons. Publish the Land Title Summons once a week for 3 successive weeks in a legal newspaper.** Minn. Stat. §508.16.

Service by publication is complete 21 days after the first publication. Rule 4.04(a), Minn. R. Civ. P. The time to Answer service by publication is 41 days after the first publication.

**2. Service on Nonresident Defendants.** The St. Louis County Examiner of Titles office provides a form for Notice to Court Administrator to Mail Summons.

**Prepare a Notice to Court Administrator to Mail Summons form. List the names and addresses of the defendants shown on the Order for Summons as having addresses outside of Minnesota.**

**Sign the Notice form and submit it to the Deputy Court Administrator in the Examiner of Titles office, along with (a) separate, stamped envelopes addressed to each nonresident defendant and (b) copies of the Land Title Summons (usually the newspaper clippings of the Land Title Summons provided by the newspaper publisher) for each envelope.**

The Court Administrator will deposit the envelopes in the mail, complete the Certificate of Mailing on the Notice form, and file it in the court file.

**3. Service on Resident Individuals. Serve individuals shown in the Order for Summons as having a Minnesota address either (a) personally in accordance with Rule 4.03(a), Minn. R. Civ. P., or (b) by mail in accordance with Rule 4.05, Minn. R. Civ. P. Minn. Stat. §508.16.**

4. Service on Legal Entities.

**Minnesota Corporations. Serve Minnesota corporations and corporations shown in the Order for Summons as having a Minnesota address either (a) by serving an officer or agent in accordance with Rule 4.03(c), Minn. R. Civ. P., or (b) by mail in accordance with Rule 4.05, Minn. R. Civ. P., or (c) in accordance with Minn. Stat. §5.25. Minn. Stat. §302A.**

Do not serve an “agent” unless evidence exists regarding the authority of the agent to accept service.

If service is made under Rule 4.05, the acknowledgment of service must be signed by an officer of the corporation.

If service is made on the Secretary of State under Minn. Stat. §5.25, the time to Answer is 30 days.

**Minnesota Partnerships or Limited Liability Partnerships. Serve partnerships shown in the Order for Summons as having a Minnesota address either (a) by serving a partner in accordance with Rule 4.03(b), Minn. R. Civ. P., or (b) by mail in accordance with Rule 4.05, Minn. R. Civ. P., or (c) in accordance with Minn. Stat. §5.25. Minn. Stat. §323A.**

If service is made under Rule 4.05, the acknowledgment of service must be signed by a partner.

If service is made on the Secretary of State under Minn. Stat. §5.25, the time to Answer is 30 days.

**Minnesota Limited Partnerships or Limited Liability Limited Partnerships. Serve a limited partnership or limited liability limited partnership either (a) by serving a general partner in accordance with Rule 4.03(b), Minn. R. Civ. P., or (b) by mail in accordance with Rule 4.05, Minn. R. Civ. P., or (c) in accordance with Minn. Stat. §5.25. Minn. Stat. §322A.761.**

If service is made under Rule 4.05, the acknowledgment of service must be signed by a general partner.

If service is made on the Secretary of State under Minn. Stat. §5.25, the time to Answer is 30 days.

**Minnesota Limited Liability Companies. Serve a limited liability company either (a) by serving a manager, or (b) by mail in accordance with Rule 4.05, Minn. R. Civ. P., or (c) in accordance with Minn. Stat. §5.25. Minn. Stat. §322B.876.**

If service is made under Rule 4.05, the acknowledgment of service must be signed by a manager.

If service is made on the Secretary of State under Minn. Stat. §5.25, the time to Answer is 30 days.

**State of Minnesota. Serve the State of Minnesota either (a) by serving the attorney general, a deputy attorney general or an assistant attorney general in accordance with Rule 4.03(d), Minn. R. Civ. P., or (b) by mailing to the attorney general in accordance with Rule 4.05, Minn. R. Civ. P.**

If service is made under Rule 4.05, the acknowledgment of service must be signed by one of the persons listed in the previous sentence. Contact the Attorney General's office prior to mailing, obtain the name of a specific deputy or assistant attorney general who is willing to sign the acknowledgment and address the envelope to that person.

**City. Serve a city either (a) by serving the chief executive officer (usually the mayor) or the city clerk in accordance with Rule 4.03 (e)(2), Minn. R. Civ. P., or (b) by mail in accordance with Rule 4.05, Minn. R. Civ. P.**

Do not serve an "assistant" or "deputy" city clerk.

If service is made under Rule 4.05, the acknowledgment of service must be signed by the mayor or city clerk.

**County. Serve a county either (a) by serving the chair of the county board, the county auditor or a deputy county auditor in accordance with Rule 4.03 (e)(1), Minn. R. Civ. P. and Minn. Stat. §384.08, or (b) by mail in accordance with Rule 4.05, Minn. R. Civ. P.**

If service is made under Rule 4.05, the acknowledgment of service must be signed by one of the persons listed in the previous sentence.

**United States. Service on the United States must be made in accordance with the requirements of federal law. 28 USC §2410.**

(a) The Application must set forth with particularity the nature of the interest or lien of the United States. If the interest of the United States involves a lien under the Internal Revenue laws, the Application must include the name and address of the taxpayer whose liability created the lien, the identity of the internal revenue office which filed the notice of lien, and the date and place the notice was filed.

**If the Application does not contain the required information, prepare and file an Amended Application containing the information.**

(b) Send 2 copies of the Land Title Summons and 2 copies of the Application (or Amended Application) to the Attorney General of the United States at Washington, D.C.

(c) Serve a copy of the Land Title Summons and a copy of the Application (or Amended Application) on the United States Attorney for the District of Minnesota, or on an Assistant United States Attorney, or on a clerical employee designated by the United States Attorney in writing filed with the St. Louis County District Court Administrator.

(d) The United States may appear within 60 days after service. The United States Attorney by letter may waive the right to Answer so that a decree of registration may be entered by default within the 60-day period.

**Town. Serve a town either (a) by serving the chair of the town board or the town clerk in accordance with Rule 4.03 (e)(3), Minn. R. Civ. P., or (b) by mail in accordance with Rule 4.05, Minn. R. Civ. P.**

Do not serve an “assistant” or “deputy” town clerk.

If service is made under Rule 4.05, the acknowledgment of service must be signed by the chair of the town board or the town clerk.

**School District. Serve a school district either (a) by serving a member of the school board in accordance with Rule 4.03 (e)(4), Minn. R. Civ. P., or (b) by mail in accordance with Rule 4.05, Minn. R. Civ. P.**

Do not serve the Superintendent of the school district.

If service is made under Rule 4.05, the acknowledgment of service must be signed by a member of the school board.

**Other public body. Serve a public body not enumerated above either (a) by serving a member of the board or other governing body in accordance with Rule 4.03 (e)(5), Minn. R. Civ. P., or (b) by mail in accordance with Rule 4.05, Minn. R. Civ. P.**

If service is made under Rule 4.05, the acknowledgment of service must be signed by a member of the board.

## SECTION 7. **PROOF OF SERVICE.**

**1. Publication.** Publication is proved by an Affidavit of Publication provided by the printer. Rule 4.06, Minn. R. Civ. P. and Minn. Stat. §§600.10 and 600.11.

**2. Personal Service.** Personal service is proved either by (a) an Affidavit of Service, or (b) a written Admission of Service. Rule 4.06, Minn. R. Civ. P. The Affidavit or Admission must be signed under oath and notarized.

An Affidavit of Service which states that the Land Title Summons was delivered to a person who is identified as the “attorney at law” for the named defendant will generally not be sufficient.

An Affidavit of Service which states that the Land Title Summons was delivered to a person who is identified as “an agent” for the named defendant (with no further information or explanation) will generally not be sufficient.

**3. Service by Mail.** Service made in accordance with Rule 4.05, Minn. R. Civ. P. is proved by a written acknowledgment of service as provided in the rule.

**4. Service on the Minnesota Secretary of State.** Service made in accordance with Minn. Stat. §5.25 is proved by Receipt/Invoice provided by the Secretary of State.

5. Assent to Registration. At any time during a registration preceding a defendant may assent to the proceeding in lieu of being served with the Land Title Summons. The Assent must be in writing and must be acknowledged. Minn. Stat. §508.06. Minn. Stat. §358.48.

## SECTION 8. **THE HEARING.**

1. Answers. If an Answer is filed, notify the Examiner of Titles. If the matter is not settled by the litigants, it will be referred to a judge. Minn. Stat. §508.20. If an Answer only sets up rights admitted in the application, the hearing may proceed as in case of default. Rule 209, Minn. Gen. R. Prac.

2. Hearing Date. Default Torrens registration cases are heard by the Examiner of Titles. Minn. Stat. §508.19.

**Contact the Examiner of Titles office by mail or phone (218-726-2572) to set the matter on for hearing.**

3. The Order and Decree of Registration. The Examiner of Titles web page provides a form for Order and Decree of Registration which may be used. Minn. Stat. §508.23.

**Prepare the Order and Decree of Registration.**

**If an Answer has been filed and withdrawn, add a Finding such as: “except the Answer of \_\_\_\_\_ which has been withdrawn.”**

**Insert a numbered Finding to cover each matter as to which a “finding” was recommended in the Examiner’s Report.**

**If the Examiner’s Report directed the Applicant’s attorney to “ascertain the names of the persons” occupying a parcel of land or maintaining a structure, insert a Finding regarding the names of the persons.**

**If the Applicant has requested that boundary lines be marked by the placement of judicial landmarks, insert a Finding, such as: “That the boundary lines of the land being registered have been marked by judicial landmarks pursuant to the Interlocutory Order dated \_\_\_\_\_ and filed in this proceeding; and a report of the surveyor showing the location of the judicial landmarks was filed in this proceeding on \_\_\_\_\_.”**

Paragraph 3 of the Decree portion of the standard form of Order and Decree of Registration is known as the “subject to clause.”

**Insert in the “subject to clause” of the Decree the concluding statements recommended in the Examiner’s Report.**

4. Torrens Affidavit of Default. The Examiner of Titles web page provides a form for Torrens Affidavit of Default and Court Administrator’s Certificate of No Answer. Rule 207, Minn. Gen. R. Prac.

**Prepare a Torrens Affidavit of Default after the time for Answering has expired.**

**If an Answer has been filed and withdrawn, add to the Affidavit a statement such as: “except the Answer of \_\_\_\_\_ which has been withdrawn.”**

If other “exceptions” should be added to the Affidavit, it may be advisable to request the assistance of the Examiner of Titles in drafting proper wording.

5. Interlocutory Order. The Examiner of Titles web page provides a form for Interlocutory Order. Rule 211, Minn. Gen. R. Prac.

**If the Applicant has requested that boundary lines be marked by the placement of judicial landmarks, prepare an Interlocutory Order.**

6. Submitting Papers for the Hearing. Papers necessary to complete the files must be submitted to the Examiner of Titles in advance of the hearing. Rule 207, Minn. Gen. R. Prac.

**At least 3 business days before the hearing, submit the following items to the Examiner of Titles office:**

- (a) an Affidavit of Publication and other proofs of service;**
- (b) a Torrens Affidavit of Default;**
- (c) documentary evidence proposed to be used by the Applicant;**
- (d) a proposed Order and Decree of Registration; and**
- (e) a proposed Interlocutory Order, if the Applicant has requested that boundary lines be marked by the placement of judicial landmarks.**

7. Testimony at the Hearing. Findings in the proposed Order and Decree of Registration which are not supported by documentary evidence should be proven by the testimony of witnesses.

The Applicant should be present to testify at the hearing. If two Applicants are married to each other, the testimony of one of them will usually be sufficient. If the Applicant is a legal entity, an officer or other knowledgeable employee should testify.

The Applicant’s attorney will appear with the witnesses. The Examiner of Titles will swear in the witnesses (usually including the attorney). The Examiner will ask the Applicant’s attorney a series of questions after which the attorney may present additional evidence to proceed with the case.

**Introduce yourself to the court, stating your name and the fact that you represent the Applicant. If the Examiner has not already done so, ask the witness to state his or her name and address. If the witness is an officer or employee of an Applicant which is a legal entity, ask the witness to state his or her relationship to the Applicant and the Applicant’s address.**

The Applicant’s attorney may be the appropriate person to testify in support of Findings regarding names of heirs of deceased persons, names of persons occupying a parcel of land or maintaining a structure. [See paragraph 3 of Section 8. The Hearing, regarding Findings in the Order and Decree of Registration as to such matters.]

The abstract of title should be updated since the date of its last certification to a date that is no more than one month prior to the hearing.

8. Filing the Order and Decree of Registration. At the conclusion of the hearing, or as soon as the Order and Decree is approved, the Examiner of Titles will endorse the Examiner's approval on the Order and Decree of Registration and deliver the document to the Deputy Court Administrator.

**Pay the initial registration fees.** Rule 212, Minn. Gen. R. Prac. Minn. Stat. §§508.74 and 508.82. **Pay \$46.00 to the Deputy Court Administrator, made payable to the Registrar of Titles for the first certificate of title. If judicial landmarks have been placed, also pay the fee for a certified copy of the survey showing judicial landmarks.**

The Deputy Court Administrator in the Examiner of Titles office will obtain a judge's signature on the Order and Decree of Registration, file the document in the court file, make a certified copy of the document and deliver the certified copy to the Registrar of Titles office. Minn. Stat. §508.23.

If judicial landmarks have been placed, the Deputy Court Administrator will also deliver to the Registrar of Titles a certified copy of the survey showing judicial landmarks. Minn. Stat. §508.23, Subd. 1a.

The Registrar of Titles will file the certified copy of the Order and Decree of Registration and issue the First Certificate of Title. Minn. Stat. §508.34.

9. Special Case: Interlocutory Order. If the Applicant has requested that boundary lines be marked by the placement of judicial landmarks, after the hearing the Examiner of Titles will endorse the Examiner's approval on the Interlocutory Order (not on the Order and Decree of Registration). The Deputy Court Administrator will obtain a judge's signature on the Interlocutory Order and file the document in the court file.

**Obtain a copy of the filed Interlocutory Order from the Deputy Court Administrator and deliver it to the Applicant's surveyor.**

After placing the judicial landmarks, the Applicant's surveyor should prepare a plat of survey showing the location of each of the judicial landmarks. Minn. Stat. §508.23. [See paragraph 6 of Section 2. The Application, regarding survey requirements.] The surveyor's certification on the plat should be in a form such as the following:

I hereby certify that pursuant to the Order of the District Court of St. Louis County, Sixth Judicial District, State of Minnesota, dated (date of Interlocutory Order) in Torrens Case No. \_\_\_\_\_, Judicial Landmarks have been placed as shown on the annexed plat. Each Judicial Landmark consists of (describe size, shape and materials of judicial landmarks) with letters cut or marked thereon reading "judicial landmark."

**Contact the Examiner of Titles office by mail or phone (218-726-2572) to set the matter on for final hearing.** [See paragraph 2 of Section 8. The Hearing.]

**Submit to the Examiner of Titles:**

- (a) 2 copies of the survey showing the placement of judicial landmarks (one of the copies should bear the original signature of the surveyor); and**
- (b) an Affidavit from the Applicant stating whether or not since the previous hearing the Applicant (i) has sold, mortgaged or otherwise conveyed an interest in the premises; (ii) is the subject of a judgment, tax lien, or Bankruptcy proceeding; (iii) is married, single, or involved in a divorce proceeding, if the Applicant is a natural person.**

Generally, it will not be necessary for the Applicant to appear at the final hearing. [See paragraph 8 of Section 8. The Hearing, regarding filing the Order and Decree of Registration]

10. Special Case: Separate Parcels with Different Owners. If separate parcels are being registered in one proceeding, but are not all owned by the same Applicant or Applicants, then a separate Order and Decree of Registration should be issued as to the land owned by each different Applicant.

**Entitle each separate Order and Decree of Registration as a “Partial Order and Decree of Registration.” The last Order and Decree of Registration in a proceeding may be entitled “Final Partial Order and Decree of Registration.”**

**Insert Findings in each Partial Order and Decree of Registration relevant to the land included in the particular Partial Order and Decree of Registration.**

Partial Orders and Decrees of Registration may be placed on the Land Title Calendar on the same date or on different dates. [See paragraph 2 of Section 8. The Hearing, regarding the Hearing Date.]

**SECTION 9. EXAMPLES.**

**1. PART OR ALL OF THE LAND BEING REGISTERED IS TRANSFERRED DURING THE REGISTRATION PROCEEDING.**

A person who acquires the original Applicant’s estate in all or part of the land being registered by voluntary instrument from the original Applicant may be substituted for the Applicant as to the land acquired by executing and filing an Amended Application with the Deputy Court Administrator in the Examiner’s office. There is no fee for the filing of an Amended Application. Minn. Stat. §508.09.

A standard Application form may be used for an Amended Application by inserting the word “Amended” before the word “Application” on the form. The caption of the Amended Application should read: “In the Matter of the Application of (name of the original Applicant), original Applicant; and (name of the new owner), Cross Applicant, To Register the Title to Certain Land.”

2. PART OR ALL OF THE LAND BEING REGISTERED IS PLATTED DURING THE REGISTRATION PROCEEDING.

The Order and Decree of Registration should describe the land by reference to the new plat. If a Supplemental Report of Examiner referring to the new plat has not been issued, the Order and Decree of Registration should contain a Finding regarding the plat.

If the plat is filed before the Land Title Summons is issued, the Examiner of Titles may require that the Land Title Summons contain both the land description set out in the Examiner's Report and a description referring to lots in the new plat.

3. THE APPLICANT GIVES A MORTGAGE OR ANOTHER INTEREST IN THE LAND BEING REGISTERED IS CREATED DURING THE REGISTRATION PROCEEDING.

Interests, such as mortgages, which are created after a certified copy of the Application has been filed with the County Recorder, are subject to the Decree of Registration. Minn. Stat. §508.27. Persons holding such interests need not be given notice of the proceeding, unless the Examiner of Titles requires notice.

The Order and Decree of Registration should contain Findings regarding such interests and, if appropriate, concluding statements regarding the interests should be included in the "subject clause" of the Decree. If an interest has not been mentioned in the Examiner's Report or in a Supplemental Report of Examiner, the Applicant should present evidence at the hearing regarding the interest. Rule 212, Minn. Gen. R. Prac.

4. A DEFENDANT IS LISTED IN THE ORDER FOR SUMMONS AS HAVING A MINNESOTA ADDRESS, BUT WHEN SERVICE OF THE LAND TITLE SUMMONS IS ATTEMPTED THE DEFENDANT CANNOT BE FOUND WITHIN THE STATE FOR PURPOSES OF PERSONAL SERVICE.

If the defendant has moved out of the state, a Supplemental Petition and Order for Summons should be submitted, listing only the one defendant and that defendant's out-of-state address. A Supplemental Land Title Summons, listing only the one defendant, should also be submitted for issuance by the Court Administrator. The Supplemental Land Title Summons should be served on the defendant. [See paragraph 1 of Section 6. Service of Process, regarding service on nonresident defendants.]

If the defendant cannot be found, it may be possible to insert in the Order and Decree of Registration a Finding, such as: "That the Order for Summons contained an error, in that it listed \_\_\_\_\_ as a resident of Minnesota, whereas in fact at the time the Land Title Summons was issued the defendant's address was unknown; and that the defendant has been given notice by publication." The Finding should be supported by evidence at the hearing, including evidence regarding the inquiry and search that preceded the original Petition for Summons. Rule 205, Minn. Gen. R. Prac.

5. THE EXAMINER'S REPORT RECOMMENDS THE OCCUPANTS OF A PARCEL OF LAND BE MADE DEFENDANTS IN THE PROCEEDING, THE APPLICANT'S ATTORNEY ASCERTAINS THE NAME OF AN OCCUPANT AND LISTS IT IN THE PETITION AND ORDER FOR SUMMONS, BUT THE OCCUPANCY IS DISCONTINUED BEFORE THE LAND TITLE SUMMONS IS SERVED ON THE PERSON.

If the person was recommended as a defendant only because of the person's occupancy of land, a Finding, such as the following, may be inserted in the Order and Decree of Registration: "That at the time the Land Title Summons was issued, \_\_\_\_\_ was an occupant of (describe the land occupied), but is no longer an occupant and need not be given notice of this proceeding." Evidence to support the Finding should be submitted at the hearing.

6. THE LAND TITLE SUMMONS CONTAINS AN ERROR.

If there is a substantial error in the land description, an Amended Petition and Order for Summons and an Amended Land Title Summons should be prepared and submitted. The Amended Land Title Summons should be published and served as provided in the section on Service of Process.

If a defendant's name is missing or is substantially misspelled, a Supplemental Petition and Order for Summons should be submitted, listing only the one defendant and that defendant's address. A Supplemental Land Title Summons, listing only the one defendant, should also be submitted for issuance by the Court Administrator. The Supplemental Land Title Summons should be served on the defendant as provided in the section on Service of Process. If the defendant's address is "unknown" or if the defendant is served by mail out-of-state, the Supplemental Land Title Summons must be published.

7. THE APPLICANT WISHES TO DISMISS THE APPLICATION.

The Application may be dismissed only by Order of the Court. Minn. Stat. §508.21.

If the Applicant wishes to dismiss the Application as to all or part of the land described in the Application either (a) prior to the issuance of the Land Title Summons, or (b) after the time for filing Answers has passed without an Answer being filed, the Applicant may submit a Petition for Dismissal and a proposed Order for Dismissal to the Examiner of Titles office, along with required fees (\$10 to the Court Administrator for certified copy of the Order and \$46 [July 1, 2005] to the County Recorder for filing the certified copy). If the Examiner approves the Petition and Order, the Deputy Court Administrator in the Examiner's office will obtain a judge's signature on the Order, file the Order in the court file, make a certified copy of the Order, and file the certified copy with the County Recorder.

If an Answer has been filed, the Applicant may by motion request an Order dismissing the Application. In that case, the court will fix the terms of dismissal.