



LAND TITLES

The following is general information about land titles. It does not replace a lawyer's advice about a specific legal problem. Everyone's situation is different, so you may need to get legal help about your matter.

Is all the land in the province owned by someone or is some of the land public land?

The Province owns about 35% of the land in Nova Scotia, and the rest of the land (about 65%) is owned privately, or by the federal and municipal governments. The majority of the publicly owned land is managed by the Department of Natural Resources. This land is often referred to as Crown lands.

Can people buy Crown lands or other provincial lands?

The Province has been working to buy more land, and does not sell a great deal of the land it owns because the percentage of public land ownership in Nova Scotia is small compared to the rest of Canada. From time to time, the government does sell land if the purpose is for economic development or to assist a municipality or community – people can apply to buy land through the Department of Natural Resources.

What if it seems like no one owns a piece of land – can someone buy or use the land?

Most of the land in the province is listed in the name of an owner. Some lands are listed in the land records as “owner unknown”. This happens when the municipality cannot identify who the owner is. “Owner unknown” lands can be sold for unpaid taxes.

What is title to land?

“Title to land” means ownership of the land. A person who has “title to land” has satisfied the legal requirements to own the land and can exercise the rights of land ownership, including the right to:

- use and occupy land; and
- to include or exclude others from using the land.

“Title to land” can also refer to a legal document such as a deed, which proves ownership.

What rights and obligations go with having title to land?

A person who has title to land can exercise all the rights landowners enjoy. These rights include any lawful use such as:

- building on the land
- developing the land
- selling the land
- leasing or mortgaging the land, and
- giving the land to someone by transferring ownership.

These rights are subject to restrictions imposed by laws such as municipal land-use bylaws.

Courts will enforce those rights and make sure that others, including governments, respect them.

Where a person does not have title to a specific piece of land, they may be denied the opportunity to exercise these rights.

Having title to land means that the landowner must comply with the legal obligations of land ownership. These obligations will vary depending on where that land is located. In Nova Scotia, the main legal responsibilities of landowners include paying municipal property taxes and following land use bylaws. If you don't pay taxes and follow applicable laws, the consequences can be severe – you may need to pay a fine or you could lose title to your land.

What does it mean to have clear title to land?

Clear title to land means there is legal certainty about who owns the land. In many cases, it is easy to identify the legal owner of a piece of land; however, sometimes several different people claim to own the same piece of a property. For example, two siblings may both claim to own the same parcel of land. If you have clear title, there are no claims on the land from others.

Why is having clear title to land important?

Clear title to land is important because it provides landowners with legal certainty that they can enjoy the rights and obligations of land ownership. Clear title to land enables landowners to develop, sell, lease, mortgage and transfer their land within the bounds of the laws where that land is located.

If I do not have clear title, what are the consequences?

Without clear title to land, the landowner's rights may be limited or restricted by other people's claims to the same land. This could stop the landowner from developing or selling their land. Also, it could result in family conflicts about the current and future uses of the land. For example:

- A person who wants to build a home may be stopped from doing so by another person who claims to have an interest in the same piece of land. As a result, until the dispute is resolved, the land cannot be used or developed fully.
- A person who wants to sell their land may not be able to do so if they do not have clear title.
- If it is not clear who owns the land, occupiers of the land may not know they should pay the property taxes, or may decide not to, and the land could be sold by the municipality for unpaid taxes. This can happen when several people or families live in separate homes built on a single piece of land that has not been legally subdivided. It may not be clear who must pay the taxes.

How do I get clear title to land?

A person can get clear title to a parcel of land in several different ways – the three mentioned below are the most common ways.

- **Marketable Titles Act** – A person can ask a lawyer to search for evidence that will establish proof of title, such as a valid property deed, agreement of purchase or sale, or a will. One of these documents, when combined with proof that the property has been occupied for at least 20 years (if private land, or 40 years if Crown land) will generally provide enough proof for the lawyer to provide a certificate of title.
- **Quieting Titles Act** – A person who cannot find paper evidence of 20 years of ownership of the land (for example, a deed may be missing) can ask the court to establish their title to the land. The property owner must give evidence to the court to prove their use and occupation of the land, and if the information is good enough, the court can grant a certificate of title. When more than one person are claiming the same parcel of land, the court can consider each claim and decide who has the best claim of ownership, or if the land should be divided between the claimants.
- **Land Titles Clarification Act** – In 13 areas of Nova Scotia, including Cherry Brook, North Preston and East Preston, a person can apply to the provincial Department of Natural Resources for a certificate of title to their land. Help of a lawyer will be needed to complete this process. The claimant must provide a description of the property, evidence of ownership (use and occupation or documents that establish the claim), and the names of other persons who may have an interest in the property. For more information on this process, go to the Department of Natural Resources website: www.novascotia.ca/natr/titles-clarification

What if someone claims to have a right to cross your land?

A claim of a right of way or an easement (easements allow one neighbour to cross over the property of a neighbouring landowner) over a parcel of land will not challenge the owner's title to the land, but those interests can impact the legal owner's ability to fully enjoy the rights that go with having title to land. For example, a person who has a right of way may have the right to use your driveway to access their property.

What are squatters' rights and how do they impact title to land?

Squatters' rights are rights of land ownership that are gained through use and occupation of land that is legally owned by someone else. These rights eliminate the ownership of the person who has legal title to the land. Another name for squatters' rights is adverse possession.

To claim adverse possession of someone's land, a person must show that:

- they (or other people before them) have continuously occupied and used the land for at least 20 years,
- their use of the land has been publicly known, and
- their use of the land has excluded other people from using the land.

Squatters' rights can also be claimed against the Crown (government) but the squatter must show 40 years of continuous use and occupation.

How do I claim adverse possession of land (or squatters' rights)?

If a person has enough evidence to establish that they have used and occupied privately owned land for more than 20 years, they can ask a lawyer to register their ownership interest in the land under the *Land Registration Act*.

If the person is making a claim against the Crown and has good evidence of 40 years of use and occupation of Crown lands, they can apply to the Department of Natural Resources for a certificate of release. If the department is satisfied that the evidence proves that the Crown's ownership right has been wiped out, the certificate of release is issued to let everyone know that the Crown no longer owns the land. The person then must get a lawyer to register their ownership interest in the land. Ownership claims can also be proven in court using the *Quieting Titles Act*.

What is land registration?

Land registration is a process that gives landowners a way to be certain that they have clear title to their land. Once land is registered in the system, the landowner has priority over all other persons who may claim an ownership interest in the same land.

Why is land registration important?

Land registration is important because it provides certainty. It ensures that the registered landowner has all the rights of ownership including developing, selling or transferring land. It makes it easier for landowners to avoid conflicts regarding the title to their land so that the land can be used as the owner wishes.

How do I register my land?

If you want to register your land, you will need the help of a lawyer who is certified to register land titles. Certain transactions, including the sale or mortgage of previously unregistered land, automatically require the land to be registered, but a landowner also may voluntarily register their land.

Once I register my land, can someone else use it or take it away?

In certain situations – especially those involving fraud or prescriptive easements – land title registration may not provide absolute protection for registered titleholders against competing claims, but land title registration provides the maximum legal protection possible against competing claims.

Once I register my land, can the government take it away?

Provincial and municipal governments and public utilities such as Nova Scotia Power and the Halifax Water Commission can take (expropriate) private land, but only if it is for a public purpose. Usually, this would be to build roads, or to expand or improve public services. If your land is needed for a public purpose, the government must compensate you by paying you the market value of the land.