

SUBJECT: POSSESSORY TITLE

Policy Number: CLM-003-2001
File Number: 608 00 0001

Effective Date: January 2004
To Be Reviewed: January 2016

Approval Original Signed by W. David Ferguson, Deputy Minister,
January 9, 2004

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1.0 Policy

1.1 Policy Statement

Crown Lands will be granted or conveyed to anyone who presents satisfactory proof that they and their predecessors in title have continuously, openly, notoriously and exclusively occupied a specific area of Crown Lands for more than sixty years or for more than twenty years prior to the lands being reconveyed to the Crown.

1.2 Background

Sections 13.1 and 21.1 of the *Crown Lands and Forests Act* enable the Minister to grant or convey Crown Lands to

a person who claims Crown Lands by possessory title, upon presentation by that person of satisfactory proof of sufficient possession

Section 30 of the *Limitations of Actions Act* requires continuous adverse possession of sixty years before Crown Lands may be claimed by possessory title. In the case of freehold lands, Section 29 of the *Act* requires only twenty years of adverse possession before they may be claimed by possessory title.

1.3 Policy Purpose

The purpose of this policy is to set criteria for the determination of possessory title.

2.0 Scope and Application

This policy applies to all claims of possessory title to Crown Lands administered under the *Crown Lands and Forests Act*.

3.0 Criteria for Establishing Possessory Title

3.1 Submission of Evidence by Claimants

The Department will require all claimants to provide where possible:

3.1.1. An abstract of title showing the claimants and their predecessors in title to have been the registered owners of the claimed lands for more than sixty years, or to have been the registered owners of the claimed lands for at least twenty years prior to the time the lands were re-conveyed to the Crown, and clearly describing the extent of the lands being claimed;

3.1.2 Other historical evidence supporting claims of notorious, open, continuous and exclusive occupation over the period in question;

Such historical evidence may include:

- receipts of paid property taxes,
- newspaper articles,
- old surveys,
- local published histories, and
- receipts of rents collected or paid.

3.1.3. Affidavits from two different people who are at arm's length to the claimants and who testify in the affidavit:

- that they have a personal knowledge of the claimants or their predecessors and their occupation of the claimed lands;
- the extent of the lands occupied by the claimants;
- the nature of the occupation, e.g. what improvements were on the lands, whether the lands were cleared, cultivated, or used for pasture, etc.
- the period of time over which, to their knowledge, the land was occupied by the claimants; and

3.1.4 Evidence on aerial photography held by the Department that the claimed lands were, over the required period of time, occupied in some way, i.e. were cleared, cultivated, had improvements built on them, etc.

3.2 Review of the Claim

The Department will review all the evidence submitted to determine if it satisfactorily proves that the claimant(s) and their predecessors in title have continuously, openly, notoriously and exclusively occupied a specific area of Crown Lands for more than sixty years or for more than twenty years prior to the lands being re-conveyed to the Crown.

3.3 Difficult Cases

In difficult to determine cases, the submitted evidence may be sent to the Office of the Attorney General for an opinion on whether there is sufficient proof of possession.

4.0 Inquiries

4.1 Written Inquiries

Inquiries concerning this policy may be made in writing to:

Director, Crown Lands Branch
Department of Natural Resources
P.O. Box 6000, Fredericton
New Brunswick, Canada, E3B 5H1
Telephone (506) 453-2437/Fax (506) 457-4802

4.2 Phone Inquiries

Telephone inquiries concerning this policy may be made by calling the Land Use Application Service Centre at 1-888-312-5600.

12.3 E-Mail

E-mail inquiries concerning this policy may be made e-mailing the Land Use Application Service Centre at CL_TCweb@gnb.ca.
