

The Honourable Jay Macdonald
Minister of Justice

Title Transfer Issues in the Tłıchǫ Region

Mr. Speaker, I have a Return to Written Question asked by the Member for Monfwi on March 13, 2025, regarding title transfer issues in the Tłıchǫ Region.

The Member asked how many properties in the Northwest Territories are currently registered in the name of deceased individuals.

Unfortunately, the Government of the Northwest Territories does not have the number of properties in the Northwest Territories whose registered owners are deceased individuals.

The land registry system used in the Northwest Territories and elsewhere in Canada is a Torrens system which registers interests and characteristics in land, and not who owns land. The Land Titles Office has no data on the named registered owners of land nor does the Land Titles Office enforce the use of legal names that appear on the records of Vital Statistics.

A separation between the NWT Vital Statistics Office under the Department of Health and Social Services, and Legal Registries under the Department of Justice prevents the Land Titles Office from accessing or cross-referencing information like death records that are not collected or intended for a particular purpose.

The Member also asked what specific legal steps are required to transfer ownership from a deceased titleholder to the rightful heirs under the current land title system.

The legal steps required to transfer ownership from a deceased titleholder to their rightful heirs in the Northwest Territories depend on several factors, including the type of interest in the land, how the ownership was structured, and the specifics of the deceased's estate. However, the two most common scenarios are transfer through estate administration, and transfer through survivorship.

Transfer through estate administration, for tenancy in common or sole ownership, begins with the administration of the deceased's estate; a personal representative, specifically an executor or administrator, is appointed by the court. The court formally grants the personal representative the authority to manage the estate's assets, including real estate property. Once appointed, the personal representative is responsible for ensuring that all debts of the estate are paid prior to distribution of assets. This would include, among other things, taxes owing on the land, arrears in lease payments if applicable and any mortgages on the property, including amounts owed to Housing Northwest Territories. The debts need to be settled prior to the transfer of land. In some cases, land must be sold to pay off debts and if there are funds left, they can then be distributed. The personal representative must file a Transmission Application with the NWT Land Titles Office. The Application provides proof of the personal representative's authority. After the transmission is registered, the personal representative must identify the rightful heirs and then transfer the land to them. This is formalized by filing a Transfer of Land with the Land Titles Office.

Transfer through survivorship occurs if the deceased held the property in joint tenancy with another person. The surviving joint tenant automatically inherits the deceased's share. The surviving joint tenant must file an Application of Surviving Joint Tenant with the Land Titles Office. The Application must be accompanied by proof of the deceased's death, such as a death certificate. Many applicants follow this process without legal assistance as it does not require administration of the estate. Upon successful application, the Land Titles Office will register the surviving joint tenant as

the sole owner of the property. The sole owner is responsible for any outstanding mortgage and/or debts.

It is strongly recommended that individuals who may have an interest in a deceased person's estate to seek legal advice from a lawyer specializing in estate administration and real estate law in the Northwest Territories. They can provide guidance tailored to the specific circumstances of each case. The Land Titles Office can provide further information but is prohibited from giving legal advice to members of the public.

The Member asked how the Department of Justice facilitates the identification of rightful heirs, and what actions must be taken to resolve any title issues including any specific declarations that must be made to the Land Titles Office.

The Department of Justice's role in identifying rightful heirs is primarily through the Public Trustee's Office and is limited in scope. The Public Trustee generally accepts administration of estates only when the only beneficiaries are children, the beneficiary is a spouse and over the age of 65, the beneficiary is mentally incapable, or there are significant assets and no next of kin can be found.

If the estate or individuals have assets or funds that exceed any prescribed amounts for the Public Trustee, these issues are considered private property matters. The determination of heirs, resolution of title disputes for most estates, and real estate transactions are also considered private legal issues. The Department of Justice is not implicated as it does not provide private legal services to members of the public.

Dealing with a deceased person's estate is a very common legal issue. It is strongly recommended that individuals plan how they wish their estate to be dealt with while still alive. Estate administration can cause pain, costs, and other burdens being left for loved ones, which can be avoided or mitigated with good estate planning.

Individuals facing land title issues or the need to identify heirs should seek legal counsel. A lawyer specializing in estate administration and real estate law can conduct thorough investigations to identify heirs, navigate the legal process of transferring property ownership, represent individuals in court proceedings if necessary, and prepare and file the required legal documents including applications and declarations.

Lastly, the Member asked about properties in the Tłıchǫ Region that have not been surveyed or registered with the Land Titles Office. Specifically, they asked about what legal process exists for establishing ownership and what steps must a resident take to begin the land survey and title registration process under current Northwest Territories laws.

There are 1,411 parcels of land within the constituency of Monfwi. Of these 1,411 parcels:

- There are 17 parcels held in fee simple with the registered owner being the Commissioner of the Northwest Territories (meaning the Government of Northwest Territories).
- There are 32 parcels held in fee simple with the registered owner being individuals.
- There are 877 parcels held in fee simple with the registered owner being Indigenous governments.
- 435 parcels have an active leasehold title associated with the fee simple interest.
- 485 parcels are untitled and would require a title to be raised by the proper authority.

Parcels can have different structures and overlapping title and may be included in more than one type. For an individual to acquire ownership of land that has not been

previously surveyed or registered, this will typically start with a Crown Grant, notification, or a notice to issue title which is accompanied by a legal survey of the parcel of land.

Within the Tłıchǫ region, this process is likely conducted by the Tłıchǫ Government under the Tłıchǫ Land Claims and Self-Government Agreement. The Tłıchǫ Government may have its own internal process.

Thank you, Mr. Speaker.