

Lexicon of Terms

The “Lexicon of Terms” provides a quick reference guide to terminology used in land management and by the Department of Indian and Northern Affairs Canada. These definitions are not intended to be comprehensive legal interpretations. Definitions of terms are derived from a variety of sources such as law dictionaries and departmental publications.

Abandonment

The relinquishment of an interest or right to use with no intention to reclaim or reuse; sometimes called “vacation”.

Abandonment of Proceedings

The discontinuance of an action by the plaintiff after the filing of a complaint, either as provided by law or by implication.

Abatement

A reduction, allowance or rebate. An abatement ‘pro rata’ is a portioned reduction of the amount of each of a number of debts or claims, as where a fund or estate is insufficient for payment of all in full.

Abstract of Title

- (1) a document showing the condensed history of the title to property, containing portions of all conveyances or other pertinent instruments relating to the estate or interest in the property and all liens, charges, encumbrances and releases
- (2) A summary in sequence of the documents, facts and events evidencing or affecting the nature of a person’s title or interest in a given tract of land

Acceptance

- (1) the formal acceptance of a document by resolution of the public officials concerned.
- (2) Certificate of such resolution
- (3) With private parties, legal signature constitutes acceptance.

Access

The way or means to approach, to enter and to leave a privately owned tract of land from a public way without trespassing on other privately owned property.

Access Rights

The right of ingress to and egress from a property. Access is a private right as distinguishable from rights of the public.

Accretion

Increase or extension of the boundaries of land by action of natural forces, such as wind or water current. The owner of riparian land is entitled to acquire title to all additions by means of accretion through provisions of Provincial Law.

Acre

A measure of land equaling 160 square rods, 4,840 square yards or 43,560 square feet.

Actual Cash Value

The price in money that property will bring in fair market after fair and reasonable efforts have been made to find the purchaser who will give the highest price. Synonymous with "fair market value" and "fair cash value"

Addition to Reserve

Means a proposal for the granting of reserve status to land which is within the service area of an existing reserve community

Administrator

A person appointed by a proper authority to settle the affairs of an individual dying without a will. "Administratrix" if such person is a woman.

Ad Valorem

According to the value.

Ad Valorem Tax

A tax varying with the value of goods or property.

Adverse Possession

A claim made against the lands of another by virtue of actual, exclusive, open, notorious, hostile and continuous possession and occupation of real property.

Aesthetic Value

The intangible, psychic enhancement of the value of a property due to such factors as a site offering an unusually pleasing view; a property located in an area, the overall layout and design of which is exceptionally attractive.

Affidavit

A written declaration or statement of facts, made voluntarily and confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath.

Affidavit of Execution/Affidavit of Witness

A written declaration under oath made by a witness to the execution of a document whereby the witness confirms that the signatories did in fact execute the document.

Affirmation

A solemn declaration without oath.

Agreement of Sale

A written contract whereby the purchaser agrees to buy certain real estate and the seller agrees to sell according to the terms and conditions set forth therein.

Alienation

The act of transferring the title to property or some interest therein to another.

Allotment

The process by which an individual First Nation member receives lawful possession of reserve land from the First Nation council under Section 20 of the *Indian Act*.

Alluvion (Alluvium)

Soil deposited by accretion. Increase of earth on a shore or bank of a river by the natural action of the water.

Amortization

- (1) the process of recovering, over a stated period of time, a capital investment
- (2) the provision for the gradual liquidation of an obligation, usually on an installment basis (e.g. , of a mortgage debt)

Annuity

- (1) an annual income
- (2) the return from an investment of capital in a series of periodic payments that comprise both interest and a partial return of capital.
- (3) The return in equal amounts called a “level” annuity or in increasing or decreasing annual amounts called an “increasing” or “decreasing” annuity
- (4) A series of periodic payments, usually, although not necessarily, equal in amount and made at equal intervals of time

Appeal

In civil practice, the complaint to an appellate court of an injustice done or error committed by a trial or lower court, whose judgment or decision the appellate court is called on to correct or reverse.

Appraised Value

An opinion or estimate of an appraiser concerning the worth of goods or property based on an interpretation of facts and beliefs as of a stated date.

Appraiser

One who estimates value; specifically one who possesses the necessary qualifications, ability and experience to execute or direct the appraisal of real or personal property.

Appreciation

The increase in cost, price or value resulting from improved economic conditions, increasing pricing levels, reversal of depreciating environmental trends, improved transportation facilities, direction of community or area growth, and many other factors.

Appurtenance

An item of property accessory to, or an adjunct of a more important property, title to which usually passes with title to the principal property. Something which passes as an incident to land, such as a right-of-way.

Arpent

A measure of distance, being 191.837 feet (English) or 180 feet (French). One French foot is 1.065 English Feet. There is also a square arpent.

Assignment

The method or manner by which a right, specialty or contract is transferred from one person to another.

Assignor

One who makes an assignment, for example, the assignor of a lease or contract.

Attachment

Legal seizure of property to force payment of a debt.

ATR

Short form generic term referring to proposals for Additions to reserve or new reserve (see definitions for "Additions to Reserve" "New Reserve")

Authentication

A sworn statement in which it is deposed that a certification was made by an officer appointed to do so.

Avulsion

The sudden removal of soil by action of wind or water flowing over or through it, and its deposit on the land of another.

Azimuth

The angle between true (meridian) north and an object. In surveying, it is measured clockwise from the north.

Band

For the purposes of the *Indian Act* means, a body of Indians

- (a) for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after the 4th day of September, 1951;
- (b) for whose use and benefit in common, moneys are held by Her Majesty, or;
- (c) declared by the Governor in Council to be a band for the purposes of the *Indian Act*

Band Council Resolution (B.C.R.)

A document which contains a resolution made by a First Nation council at a duly convened First Nation council meeting which has been discussed, voted on, and passed by a quorum of council.

Base Lines

Lines of surveying running east-west, on which the calculated widths of sections are quarter-sections are laid out. The international boundary (49th parallel of latitude) is the first baseline.

Bearings

Bearings on **C.L.S.R.** plans are referred to astronomic north; however, a limited number of old plans quote bearings referred to magnetic north. Bearings follow full circle from 0 degrees at north to 180 degrees at south, through west at 270 degrees, and continuing the full 360 degrees of the compass to the direction of commencement being north.

Bench Mark

- (1) a point of known elevation, usually a mark of some durable material such as stone or concrete posts;
- (2) a bronze plate to serve as a reference point in running a line of levels for the determination of the elevations.

Beneficial Interests

Benefits, profits or advantages resulting from a contract or the ownership of an estate as distinct from the fee ownership or control of a property.

Bequeath

To make a gift of personal property by one's last will and testament.

Betterment

A physical improvement that adds to the capital value of the structure. A capital expenditure that increases the utility or market desirability of the property. It is distinguished from repairs or replacements by the fact that the original character is improved and the value is increased. Also may arise from a physical change external to the property such as street improvements, improved drainage facilities, etc. Their measure of value is not in actual cost, but in enhanced value imparted to the property.

“Blanket” B.C.R.

A Band Council Resolution that may be referred to as general authority for more than one act. e.g. A B.C.R which authorizes the Band Council to demand a share or locate lease rentals whenever locate lands are leased under subsection 58(3) of the *Indian Act*.

Bonus

Generally refers to payment made by the lessee to the lessor as an additional consideration, as used in leasing.

Bonus Value

The value of any rental in excess of the rent reserved in the lease, which the tenant could obtain if he sublet the premises on the open rental market. It is the difference between the lease rent (contract rent) and the rent being paid by other tenants for comparable space in the vicinity of the subject lease (economic or market rent).

Book Value

The capital amount at which property is shown on the books of account. Usually it is the original cost, less reserves for depreciation, plus additions to capital.

Breach

The breaking or violating of a law, right or duty, either by commission or omission.

Broker

One employed by another, for a fee, to assist in certain activities, as for example, the purchase, sale or leasing of real estate.

Building Code

The ordinances, rules and regulations of a government entity (for example , a municipality) relating to the construction and maintenance of buildings.

Building Line

A line established by ordinance or statute between which line and the street a structure is not permitted. Synonymous with "set-back line".

Bundle of Rights Theory

Fee ownership of a parcel of real estate embraces use and occupancy rights, mineral rights, air rights, disposition rights etc. Any one or several of the rights may be transferred or conveyed to another, with the owner retaining those rights not conveyed.

Burden of Proof

The necessity or duty of providing the facts in dispute on an issue raised between the parties in a cause.

Capital

Accumulation of wealth used to further the production process. Capital goods represent such wealth when invested in specialized means of production. Liquid or unspecified capital may be shifted between various types of capital investments.

Capitalization

The process of converting into a present value (obtaining the present worth of) a series of anticipated future payments.

Capitalization Rate

The rate at which payments are discounted to indicate the probable capital value or present worth. The rate is usually commensurate to risk. The capitalization rate is generally considered to be composed of a pure interest rate plus the recapture rate.

Capitalize

- (1) to convert future payments into current value
- (2) to discount future incomes into present value

Capitalized Value

The computed amount of the present worth of the right to collect the future net income from property; the value computed by dividing net annual earnings by a capitalization rate, usually the prevailing rate.

Caveat

A notice entered or filed in a registry office or court to prevent a certain step being taken without the caveator (person filing or entering the caveat) being informed. A synonym for caveat is "caution".

Centreline of Survey

- (1) the path followed by and identified by surveyors
- (2) the longitudinal center of a right-of-way- project.

Certificate

A written statement made by a person having official status relative to some matter within his official authority or knowledge.

Certificate of Occupation (CO)

The documentary evidence, issued under subsection 20(5) of the *Indian Act*, of a First Nation member's right to temporary use and occupation of reserve lands pursuant to the provisions of subsections 20(4) and (6).

Certificate of Possession (CP)

The documentary evidence of a First Nation member's lawful possession of reserve lands pursuant to the provisions of subsections 20(2), (3) or sections 22, 24 or 49 of the *Indian Act*.

Certificate of Title

A document based on a title search stating that the title or interest in property is vested in a designated person and showing outstanding liens, charges or other encumbrances.

Certified Copy

A copy which is certified as being true by the person into whose custody the original thereof has been officially entrusted.

Chain

A unit of land measurement; 100 links or 66 feet, the length of a surveyor's chain.

Chain of Title

A history of conveyances and encumbrances affecting the title from the time the original patent was granted or as far back as records are available. See "Title Abstract"

Chattel

Personal property, such as household goods, movable fixtures or an automobile.

Chattels – Real

All interests in real estate that do not constitute a freehold or fee estate in land; such chattels include leasehold estates and other interests issuing out or annexed to real estate.

Clear Title

A title that is not encumbered or burdened with defects.

Clouded Title

An encumbered title. Examples of encumbrances are judgments, liens

C.L.S.R. (Canada Lands Surveys Records) Plan

A graphical description of the boundaries of land prepared from field notes of a survey, confirmed pursuant to Section 29, 39, 42, 43, or 44 of the *Canada Lands Surveys Act*

Codicil

A supplement to a last will and testament whereby a testator amends or adds to his original will. Becomes part of the original will, and must be executed with the same formalities.

Common Law

- (1) The body of customs, usages and practices developed and administered by the Anglo-Saxons
- (2) The body of English Law as distinguished from Roman Law, Canon Law and other systems
- (3) The ancient unwritten law founded on immemorial customs and precedents as distinguished from statute law
- (4) System of elementary rules and general judicial declarations of principles that are continually expanding with the progress of society, adapting themselves to the gradual changes of trade, commerce, arts, inventions and the exigencies and usages of the country.

Common Property/Common Land

- (1) Land generally or a tract of land considered as the property of the public, in which all persons enjoy equal rights
- (2) Property not owned by individuals or government, but by groups (in certain jurisdictions only)

Community Property

All property acquired by either husband or wife or both during their marriage, other than that acquired by gift, descent and devise, belongs to both as a community and not to each individually.

Comparables

An abbreviation for comparable properties, rentals, incomes, etc. Used for comparative purposes in the appraisal process.

Compensable Damages

Those damages for which compensation must be paid under expropriation law.

Compensable Interest

A property right, which if acquired for public purposes, would entitle the owner to receive just compensation.

Condition or Conditions

A proviso in a deed or a will that upon the happening or failure to happen of a certain event, the title of the purchaser or devisee will be limited, enlarged, changed or terminated.

Conditions and Restrictions

A common term used to designate the uses to which land may not be put and providing penalties for failure to comply. Commonly used by land subdividers.

Condominium

A system of individual fee ownership of units in a multi-unit structure, combined with joint ownership of common area of the structure and land.

Confirmed Reserve

A reserve in which the history of land transactions has been recorded and registered and whose abstract of title is subject to amendment rather than complete examination.

Confluence

The point where two rivers or streams merge.

Consequential Damages

Loss in value of a parcel of land, no portion of which is acquired, resulting from a public improvement.

Consideration

The price or subject matter which induces a contract, may be in money, commodity exchange or a transfer of personal effect

Constructive Notice

Notice of title conditions as found on the public records (see registration)

Contour

A line connecting the points on a land surface or map that have the same elevation. The water edge of a lake forms a contour line.

Contract

An agreement between two or more persons, upon a sufficient consideration, to do or not to do a particular thing.

Contract Rent

The amount of rent provided for under the terms of the lease, the actual rent that is agreed to be paid. In a written lease it is specifically set forth as one of the terms; in an oral rental agreement, if the amount can be proven, it is also considered contract rent.

Convey

The act of deeding or transferring title to another.

Conveyances

A written instrument by which a title, estate or interest in property is transferred. Another term for deed.

Corporation

In law, an organization enjoying legal personality or status for the purpose of carrying on certain activities.

Cost Approach

A method in which the value of a property is derived by estimating the reproduction cost of the improvements, deducting therefrom the estimated depreciation, and adding the value of the land as estimated by the use of the market data approach.

Cost of Replacement

- (1) The cost that would be incurred in acquiring an equally desirable substitute property
- (2) The cost of replacement new, on the basis of current prices, a property having the utility equivalent to the one under appraisal (this may or may not be the cost of a replica of the property);
- (3) The cost of replacing unit parts of the structure to maintain it in the highest economic operating condition.

Cost of Replacement Less Depreciation

The cost of replacement new at current prices, less a deduction for depreciation. The deduction for depreciation is a total loss in value arising from physical, functional and economic causes.

Cost of Reproduction

The cost of construction new of an exact duplicate or replica using the same materials, construction standards, design, layout and quality workmanship.

Covenant

An agreement or stipulation written into deeds and other instruments promising performance or non-performance of certain acts or stipulating certain uses or non-uses of the property.

Crop Share Rent

A rent which is based on an agreed percentage of the revenues derived from the sale of crops grown by the tenant.

Crown Lands

Those lands title to which is vested in the federal or provincial governments. Indian reserve lands are not Crown lands. Synonymous with "Public Lands"

Curable Depreciation

Those items of physical deterioration and functional obsolescence that are customarily repaired or replaced because the enhancement in the value of the property by curing exceeds the cost of curing. e.g. broken window.

Custody

Having the care and control of anything or the responsibility for the same.

Damages

In expropriation, the loss in value to the remainder in a partial taking of a property. Generally, the difference between the value of the whole property before the taking and the value of the remainder after the taking is the measure of the value of the part taken and the damages to the remainder

Dedication

The setting part by the owner and acceptance by the public of property for public use, in accordance with statute or common law. No compensation is paid by the public.

Deed

Written instrument, usually under seal, by which the ownership of interests in land is transferred from one person to another.

Deed, Quit Claim

A deed conveying, without warranty, any title,, interest or claim that the grantor may have in the estate conveyed.

Deed, Warranty

A deed containing a covenant by the grantor to the grantee to warrant and defend the title of the estate conveyed.

Deed of Trust

Written instrument by which title to land is transferred to an trustee as security for a debt or other obligation.

Default

Failure to perform a duty or to discharge an obligation in accordance with an agreement or a contract.

Defendant

The person defending or denying; the party against whom relief or recovery is sought in an action or suit.

Deferred Maintenance

Existing but unfulfilled requirements for repairs and rehabilitation. Contemplates the desirability or expenditures but does not necessarily denote inadequate maintenance in the past. Exists to some extent in any operating property.

Delivery

The final and absolute transfer of a deed from seller to buyer in such a manner that it cannot be recalled by the seller.

Demise

As in a transfer or lease; e.g. a transfer to another of an estate for years, for life or at will etc.

Demise Clause

As in a lease document, that clause which has the effect of granting an interest in the land to the lessee.

Demonstrative Evidence

Evidence addressed directly to the senses without intervention of testimony.

Deposition

The written testimony of a witness taken on oral questioning or interrogatories for use in the trial of an action in court.

Depreciation

A loss in value brought about by deterioration through ordinary wear and tear, action of the elements or functional or economic obsolescence.

Descent

Succession to the ownership of an estate by inheritance or by any act of law, as distinguished from purchase. Title by descent is the title by which one person, on the death of another, acquires the real estate of the latter as the heir-at-law.

Designated Land

A tract of land or any interest therein the legal title to which remains vested in Her Majesty and in which the land for whose use and benefit it was set apart as a reserve had, otherwise than absolutely, released or surrendered its rights or interests, whether before or after the coming into force of this definition (*Indian Act, 1951*)

Deterioration

Impairment or condition; one of the causes of depreciation and reflecting the loss in value brought about by wear and tear, disintegration, use in service and the action of the elements.

Development Plans

The complete and detailed conceptual plans, as-built plans, design briefs, construction specifications and cost estimates prepared by an Architect or Engineer including (without limitation) all site plans drawn to scale

Devise

A gift of real property by the Last Will and Testament of the donor.

Devisee

A person to who real property is given by will.

Devolve

To pass from a person who is dying to his or her survivors.

Disclaimer

- (1) A renunciation by a defendant of all claim to damages resulting from the taking of the real property which is the subject of the complaint
- (2) The instrument by which disclaimer is made

Discovery

The procedure provided by law by which a party to an action may take the testimony of any person, including the other party, by deposition taken on oral examination or written interrogatories for use as evidence in the action.

Dismissal with Prejudice

Dismissal of an action after adjudication of its merits; final disposition, barring the right to bring or maintain an action on the same cause.

Dispossess

To oust from land by legal proceedings; to eject, to exclude from realty.

Divest

To deprive of a right or title

Donation

The voluntary conveyance by the owner of private property to public ownership and use without compensation.

Easement

A non-possessing interest held by one person in land of another whereby the first person is accorded partial use of such land for a specific purpose. An easement restricts but does not abridge the rights of the fee owner to the use and enjoyment of his land.

Economic Rent

- (1) The reasonable income expectancy if the property were available for rent
- (2) The rent being paid for comparable space, a distinguished from contract rent
- (3) The market rental justifiability payable for the right of occupancy of vacant land or property.

Effective Income

The estimated gross income less allowances for vacancies and rent losses.

Egress

The right to leave a tract of land. Often used interchangeably with “access”

Encroachment

A fixture, such as a house, sign, wall or fence, that illegally intrudes on another’s property.

Encumber

To burden a parcel of land with a lien or charge, such as a mortgage

Encumbrance

Anything that affects or limits the fee simple title to property, such as mortgages, easements, or other restrictions. An interest or right in real property which diminishes the value of the fee, but does not prevent conveyance of the fee by the owner.

Endorsement

A certificate or memorial written or printed on the back of a document.

Engross

To copy in handwriting or to prepare a document for execution.

Environmental Impact Assessment (EIA)

A process to identify and evaluate all potential environmental impacts that may occur as a result of a planned project on land being proposed

Environmental Site Assessment (ESA)

Equity

The interest or value that an owner has in real estate, over and above any liens that may be against it.

Escrow

A procedure whereby a disinterested third party handles legal documents and fund on behalf of a seller and buyer.

Estate

A right in property. An estate in land is the degree, nature or extent of interest that a person has in it.

Eviction

The process instituted to oust a person from the possession of real estate as a result of a violation of some covenant.

Exception

- (1) In legal descriptions, that portion of lands to be deleted or excluded
- (2) An objection to title or encumbrance on title.

Executor

A person appointed by the appropriate authority to carry out the terms of a will. Executrix if such person is a woman.

Expropriation

The taking of land by a public authority from the rightful owner for a public use, as by right of eminent domain, and for which compensation is paid.

Fair Market Value

The most probable price that a property will bring in a competitive and open market under all conditions requisite to a fair transaction and not affected by undue stimulus, with the seller and purchaser each acting prudently and knowledgeably

Fiduciary

A person in a position of trust and confidence, as between principal and broker; a broker as fiduciary, owes a certain loyalty that cannot be breached under rules of agency.

Fixture

A movable chattel (such as machine, heating plant etc.) which by reason of its annexation to real property and adaptation to continuing use in connection with the realty is considered a part of the realty.

Foreclosure

A court process instituted by a mortgagee or a lien creditor to defeat any interest or redemption the the debtor-owner may have in the property and to recover the mortgage debt.

Grant

A transfer of real property

Grantee

A person to whom real estate is conveyed; the buyer.

Grantor

A person who conveys real estate by deed; the seller

Guardian

A person to whom the law has entrusted the custody and control of the person or estate or both of a minor or incompetent person.

Heir

One who might inherit or succeed to an interest in lands under the rules of law applicable where an individual dies without leaving a will.

Improvements

Those additions to raw lands tending to increase the value, such as buildings, streets and sewers.

Improvements- on- land

Structures erected permanently on a site to make it usable, such as buildings, fences, driveways

Improvements-to-land

Usually additions to land to make adjacent property usable, such as curbs, sidewalks, streetlights, sewers etc.

Indenture

A deed to which two or more persons are parties and in which they enter into reciprocal and corresponding grants or obligations toward each other.

Ingress

The right to enter a tract of land. Used interchangeably with “access”

Insured Value

Estimated value used for indemnification against specific losses.

Interest

- (1) A sum paid or calculated for the use of capital, usually expressed in terms of a rate or percentage of the capital involved called the interest rate
- (2) In property, may be the ownership of the entire property or it may be a partial interest.

Intestate

Designates the estate or condition of failing to leave a will at death; “to die intestate”

Joint Tenancy

The holding of property by two or more persons in such a manner that upon the death of one joint owner, the survivor, or survivors take the entire property. The right of survivorship takes precedence over any testamentary disposition made by a joint tenant.

Judgment

The decision of a court of justice on the respective rights and claims of the parties to an action.

Just Compensation

That payment required by law for the loss sustained by the owner as a result of taking or damaging of private property for public purposes.

Landlocked Parcel

A parcel of land without access to any type of road or highway

Land use Regulation

Broadly, any legal restriction, such as zoning ordinances, that controls the uses to which land may be put

Lease

A contract, written or oral, by which possession of land and/or building is given by the owner to another person for a specified period of time and for the rent specified.

Leasehold

- (1) Property held under tenure of lease
- (2) The right of the lessee to use and enjoy real estate for a stated time under certain conditions, such as the payment of rent

Leasehold Improvements

The improvements and/or additions to leased property that have been made by the lessee

Legal Description

A description recognized by law; a description by which property can be definitely located by reference to surveys or approved recorded plans

Lessee

One who acquires the right of use of the property of another, to whom the lease is granted or the property is rented under the lease

Lessor

One who rents real property to another or conveys or leases the right of use of real estate to another; the landlord

Letters Patent

Grants by the Crown of Lands etc., which are not sealed up but are left "patent" (open) with the great seal attached

License

A personal privilege to do some act on the land of another

Lien

A hold or claim that one person has on the property of another, such as a security for a debt or a charge, judgment, mortgage or tax

Locatee

The individual First nation member who holds lawful possession of a duly allotted parcel of reserve land. A locatee must be a registered member of the First Nation making the allotment or entitled to be registered under the *Indian Act*

Location Ticket

Synonymous with "Certificate of Possession" as defined in the *Indian Act*

Lot

A piece of land, regardless of size or ownership

Metes and Bounds

The limits and boundary of a tract of land. A metes and bounds description usually is a description that uses bearings (the angles east or west of due north or south) and distances (usually in feet or chains) to describe the perimeter of a tract of land.

Monument

Visible marks left on natural or other objects by a surveyor to establish the lines and boundaries of land

Mortgage

- (1) a pledge of real property as security for the payment of a debt or the fulfillment of some obligation
- (2) written document by which land is given as security for a debt with the right of redemption

Mortgagee

A person to whom property is pledged as security for a loan; one who takes a mortgage or one who loans money secured by a mortgage

Mortgagor

An owner who pledges his property as security for a loan (debtor); one who gives a mortgage or one whose property is mortgaged

New Reserve

Means the granting of reserve status to land which is not within the “service area” of an existing reserve community (chapter 10 – Lands Management Manual)

NETI (No Evidence of Title Issued)

That for any of a variety of reasons, no title was issued even though the lawful possession has been approved by the Minister of Indian and Northern Affairs

Notarial Copy

A document or transcript executed under the seal of a Notary Public

Notary Public

An official authorized by law to attest and certify certain documents by his hand and official seal

Notice

A document, when deposited with the Indian Lands Registry, reflects the existence of a claim or interest, whether legally valid or not, against a parcel of reserve, designated or surrendered land

Order in Council

An order made by the Governor General (or Lieutenant Governor of a Province) on behalf of Her Majesty the Queen on the advice of the Privy Council either under statute or by royal prerogative

Patent

- (1) a grant of some privilege, property or authority made by the government or sovereign of a country to one or more individuals
- (2) document or title issued by a government or state for the conveyance of some portion of the public domain to an individual

Permit

A written document granting the non-exclusive use of property for a specific purpose.

Plaintiff

A person who brings an action.

Pleadings

The formal allegations by the parties for their respective claims and defenses for the judgment of the court

Plot

The action of drawing a map or plan of a single parcel of property

Power or Attorney

An instrument authorizing a person to act as the agent of the person granting it.

Power of Sale

A clause inserted in a will, mortgage or trust agreement authorizing the sale or transfer of land in accordance with the terms of the clause

Property

The right or interest that an individual has in lands and chattels to the exclusion of all others.

Quiet Enjoyment

A covenant that the tenant or grantee of an estate shall enjoy the possession of the premises in peace and without disturbance by hostile claimants

Quit Claim Deed

A deed conveying, without warranty, any title, interest, or claim the grantor may have in the estate conveyed.

Register

A record of a land transaction so arranged as to show possessory entitlement, encumbrances and obstructions, relating to identified parcels of land

Registration

The act of recording a land transaction in such a way that all persons, agencies, and lands affected are advised of the implications of the transactions.

Registration Plan

a graphical description of the boundaries of land prepared from information contained in existing documents, field notes of a survey, controlled aerial photographs or maps, etc. and confirmed pursuant to Section 31 of the Canada Lands Surveys Act.

Reserve

A tract of land, the legal title to which is vested in Her Majesty, that has been set apart by her Majesty for the use and benefit of a band

Right of Access

The right of an ingress or egress to a property. May be over land or water

Right of Way

- (1) the right to pass across the lands of another
- (2) land, property or interest therein, usually in a strip acquired for or devoted for some specific purpose

Riparian Rights

The rights of an owner of water-fronting lands in the bed, banks, accretions, water, access, and related items

Road allowance

As in the original townships – is a prescribed width for the purpose of permitting subsequent road construction

Royal Prerogative

Means the power of the Crown, as represented by the Governor in Council, to take action as an exercise of its executive power.

Section or Section of Land

A parcel of land comprising one square mile or 640 acres

Subdivision

A tract of land divided into lots suitable for purposes of adding improvements

Surrendered Lands

As defined in the *Indian Act*, means a reserve or part of a reserve or any interest therein, the legal title to which remains vested in Her Majesty, that has been released or surrendered by the band for whose use and benefit it was set apart

Tenancy in Common

The holding of property by two or more persons, each having an undivided interest which, upon death, passes to the heirs and holds no right to survivorship by remaining property holders.

Title

The evidence of a person's right to property or the right itself

Title Search

An investigation of public records and documents to ascertain the history and present status of title to property, including ownership, liens, charges, encumbrances and other interests

Topographic map

A map charting the topography of an area of the earth's surface, using contour lines, tinting and shading

Topography

The surface characteristics, natural or man made, of a particular place or tract of land, especially the exact and scientific delineation and description in minute detail of any place or region

Valuable Consideration

A simple contract, not under seal, must be in consideration of something which has value.