

Subject: **SURVEYS - PLAN CORRECTIONS**

BACKGROUND

Where there is an omission, clerical error or other defect in a registered plan, the Registrar may correct the plan pursuant to section 90 of the Metis Settlements Land Registry Regulation if he is satisfied that the correction will not adversely affect any person or if all persons who may be adversely affected have consented to the correction. The Alberta Land Surveyor who signed the plan or, if the Alberta Land Surveyor is not available, the Director of Surveys must consent to the correction. If the consent of a person who may be adversely affected cannot be obtained, an application may be made under section 90 of the Metis Settlements Land Registry Regulation for correction of the plan.

It is important to note that reference in section 90 to “an omission, clerical error or other defect in a registered plan” is restricted to defects other than an actual survey error. The terms “omission” and “clerical error” do not encompass a survey error and accordingly, “other defect” must be restricted in its meaning under the statutory construction rule (1.). The Registrar cannot use this section to approve corrections to plans which have the effect of moving monuments or altering property boundaries.

REGISTRATION PROCEDURE

1. In order for the Registrar to correct an omission, clerical error or other defect in a registered plan pursuant to section 90 of the Metis Settlements Land Registry Regulation the following will be required:

- a) A letter from the Alberta Land Surveyor containing the following information:
 - i) A detailed explanation of the nature of the error or defect and the corrections to be made. The corrections can either be in a list form or marked on a copy of the plan trimmed off to sheets no larger than 11 ½ x 14 inches;
 - ii) A statement that no improvements have been made (e.g. fence, driveway, garage, setback requirements, utilities) relying on the incorrect information on the plan and that the correction will not create any encroachments or have any other adverse affects;
 - iii) Advise whether the corrections affect any other registered plans;
 - iv) A statement that no monuments have been moved or removed;
 - v) A statement that no property boundaries are being altered or moved; and
 - vi) Consent from the owner(s). Note that this consent is usually required where areas or distances are to be amended.

STATUTE AND CASE REFERENCES

1. According to standard canons of statutory construction, where general words follow the enumeration of particular classes of things, the general words will be construed as applying only to things of the same general class as those enumerated. In Section 90, the terms “omission” and “clerical error” should not be seen as encompassing a survey error and therefore, “other defect” should not be interpreted in its meaning to include altering property boundaries.