



INSTRUCTIONS

FORM 5 - TRANSFER OF LAND

NOTE: These instructions are provided for assistance only. They are not intended to address every type of transaction, nor do they constitute legal advice. Real property (land) transactions are, by their nature, important legal transactions and should be entered into with professional advice and assistance. The transfer form provided on the web site is for the most common type of transaction where the owner is transferring their entire fee simple interest in the property.

“I (We),”

State the full names and the place of residence of the registered owners(s) as they appear on the existing certificate of title. If the name of a registered owner has changed, additional documentation will be required.

“in land described as follows”

State the proper legal description for the property, as it appears on the existing certificate of title.

“in consideration of”

State what is being given as consideration for the transfer of the property. This is most often the purchase price or a nominal amount, such as " \$10.00 and other good and valuable consideration. "

“received from”

State the name of the person or persons from whom the consideration was received, who are usually the same persons to whom the property is being transferred.

“transfer to”

State the full legal name(s) and the place of residence (for example, the City of Yellowknife, in the Northwest Territories) of the person or persons that the property is being transferred to. Combining names is not acceptable (for example, if the names are James William Doe and Mary Elizabeth Doe, they cannot be stated as James William and Mary Elizabeth Doe).

“of”

State the place of residence (for example, the City of Yellowknife, in the Northwest Territories) of the person or persons to whom the property is being transferred.

“as joint tenants *or* tenants-in-common.”

One of these options must be chosen, if the property is transferred to two or more persons, by deleting the choice that does not apply. There are different legal consequences, depending upon

the type of tenancy that is selected (for example, joint tenants have a right of survivorship, while tenants-in-common do not). To determine which type of tenancy is appropriate for their situation, the persons to whom the property is being transferred are advised to seek legal advice. If no tenancy is selected, the tenancy is deemed by law to be a tenancy-in-common.

Signing the transfer

The transfer must be dated and signed by the current registered owners in front of a witness, who cannot be a person with any interest in the transaction (for example, the registered owners cannot be the witness for each others signatures, nor can a person to whom the property is being transferred be a witness). If the registered owner is a corporation, the transfer may be signed by an authorized officer of the corporation and the corporate seal affixed to the transfer.

Postal Address of Transferee:

State the full postal address (including postal code) of the person(s) to whom the property is being transferred must be stated on the Transfer.

List encumbrances and interests

The encumbrances and interests to which the transfer is subject (typically those listed on the back of the existing certificate of title) must be listed on the Transfer.

Affidavit of Attestation

This must be sworn by the witness in front of a person authorized to take oaths for use in the Northwest Territories. The names in paragraph 1 of the affidavit must be the same as the names of the persons transferring the property as stated in the Transfer. If the transfer is executed by a corporation and the corporate seal is affixed, the affidavit of attestation is not required.

Affidavit of Value

This affidavit must also be sworn in front of a person authorized to take oaths for use in the Northwest Territories. It must be sworn by one of the persons to whom the property is being transferred, or by an agent of the person(s) with knowledge of the value of the land. The value must represent the current fair market value of the land, including any buildings and other improvements on the land.

“The value of each lot is as follows:”

This is only completed if more than one lot is being transferred, and the transferee expects that the lots may be dealt with separately in the future.