

**INSTRUCTIONS FOR CONDUCTING
PROCEEDINGS SUBSEQUENT TO INITIAL REGISTRATION
IN HENNEPIN COUNTY, MINNESOTA**

TABLE OF CONTENTS

	Page
SECTION 1. OVERVIEW	2
SECTION 2. THE PETITION	2
SECTION 3. THE REPORT OF EXAMINER	4
SECTION 4. THE ORDER TO SHOW CAUSE	4
SECTION 5. SERVICE OF PROCESS	5
SECTION 6. PROOF OF SERVICE	7
SECTION 7. THE HEARING	8
SECTION 8. OBJECTIONS	10
SECTION 9. EXAMPLES	10

**INSTRUCTIONS FOR CONDUCTING
PROCEEDINGS SUBSEQUENT TO INITIAL REGISTRATION
IN HENNEPIN COUNTY, MINNESOTA**

This manual is intended to be used by attorneys who will draft the documents and take the actions noted in the instructions. Forms commonly used in Torrens proceedings may be found at the Examiner of Titles internet site:

www.hennepin.us (keyword: Examiner of Titles)

SECTION 1. OVERVIEW.

The following sequence of events occurs in proceedings subsequent to initial registration in District Court:

1. The proceedings are initiated by the filing of a **Petition**.
2. The Examiner of Titles issues a **Report** listing the persons who should be given notice of the proceeding.
3. An **Order to Show Cause** is issued and served on the persons named in the Examiner's Report.
4. A **Hearing** is held, after which the Court issues its **Order**.
5. A certified copy of the Order is filed with the **Registrar of Titles**.

SECTION 2. THE PETITION.

The Petition should conform to the requirements of Rule 213, Minn. Gen. R. Prac. (In Hennepin County, however, the description of the property is usually set out in the first paragraph rather than in the caption.) Forms of Petitions recommended for use in various types of Proceedings Subsequent may be found at the Examiner of Titles internet site: www.hennepin.us (keyword: Examiner of Titles).

1. Prepare the Petition.

The Petition should be signed by the attorney. Rule 11.01, Minn. R. Civ. P.

The Petition should be verified by the Petitioner. Rule 213, Minn. Gen. R. Prac. However, the Petitioner's attorney may verify the Petition if the verification contains the statement required by Minn. Stat. §544.15, clause(3) regarding absent party or officer.

2. Submit the executed Petition to the Deputy Court Administrator in the Examiner of Titles office for filing, along with filing fees of \$322 payable to the District Court Administrator. Minn. Stat. §357.021 [July 1, 2005].

3. If it is desirable to provide notice of the pendency of the proceeding to purchasers and encumbrancers of lands described in Certificates of Title affected by the proceeding, a certified copy of the Petition may be filed as a memorial on the Certificates of Title. Minn. Stat. §508.71, Subd. 2. **In that case, submit to the Deputy Court Administrator in the Examiner of Titles office (a) a written request that a certified copy of the Petition be filed on the Certificate(s) of Title, (b) \$14 payable to the District Court Administrator, and (c) \$46 for the first Certificate of Title and \$20 per each additional Certificate of Title payable to the Registrar of Titles.** Minn. Stat. §508.82 [July 1, 2005].

4. If the Petition is brought to have boundary lines judicially determined pursuant to Minn. Stat. § 508.671, the Petition must contain the full names and post office addresses of all owners of adjoining lands which are in any manner affected by the boundary determination. **In that case, also submit to the Deputy Court Administrator in the Examiner of Titles office: (a) a memorandum abstract showing the record owners and encumbrancers of any adjoining unregistered (i.e., abstract) land; (b) a survey of the land; and (c) a written request that a certified copy of the Petition be filed with the County Recorder and on any Certificates of Title for adjoining lands, along with (i) \$14 payable to the District Court Administrator, (ii) \$46 payable to the County Recorder, and (iii) \$46 for the first affected Certificate of Title and \$20 per each additional Certificate of Title payable to the Registrar of Titles.** Minn. Stat. §§357.18 and 508.82 [July 1, 2005].

The survey should locate the boundary lines by reference to “well-known permanent landmarks.” Minn. Stat. §559.25. Typically, the landmarks will be section corners maintained by the Hennepin County Surveyor pursuant to Minn. Stat. §381.12. In the City of Minneapolis, the landmarks may be “Minneapolis City Control Monuments.” The Petitioner’s surveyor may contact the Hennepin County Surveyor or the Examiner of Titles for guidance in the selection of appropriate landmarks.

The survey should contain the land description as stated in the Certificate of Title and a certification by a licensed surveyor similar to the following (based on the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys):

To (name of insured, if known), (name of lender, if known), (name of insurer, if known), (names of others as negotiated with the client):

This is to certify that this map or plat and the survey on which it is based were made in accordance with 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 8, and 11(a) of Table A thereof. The field work was completed on _____.

Date of Plat or Map: _____ (Surveyor’s signature, printed name and seal with Registration/License Number)

SECTION 3. THE REPORT OF EXAMINER.

After the Petition is filed, the Examiner of Titles will conduct an examination and issue a report. The Report will include the names of persons to be given notice of the proceeding, and recommended evidence and findings to support an Order granting the relief requested in the Petition. Rule 215, Minn. Gen. R. Prac. A copy of the Report will be sent to the Petitioner's attorney.

SECTION 4. ORDER TO SHOW CAUSE.

Notice of the proceeding is given by service of an Order to Show Cause (except where other notice is specified by statute). Rule 215, Minn. Gen. R. Prac. The Hennepin County Examiner of Titles office provides a form for the Order to Show Cause, which may be found at the Examiner of Titles internet site: www.hennepin.us (keyword: Examiner of Titles).

1. Prepare the Order to Show Cause. (Note: the caption on the Order to Show Cause is somewhat different from that on the Petition, the Report of Examiner and the Order.) Insert the Certificate of Title number and the land description in the caption.

List the name of each person recommended in the Report of Examiner to be given notice after the word "TO."

If the Report of Examiner requires that notice be given to occupants, determine the names of the occupants and list them.

If a business entity recommended in the Report of Examiner to be given notice has changed its name due to merger, amendment to governing documents, or otherwise, determine the current name and list it instead of the name stated in the Report.

If a person recommended in the Report of Examiner to be given notice is deceased and the person's heirs have been determined by a Probate Court, list the names of the heirs in lieu of the deceased person. However, if there has not been a determination of heirs, then list the names of the known heirs which you have ascertained and, in addition, insert in the list of names "the unknown heirs of _____, deceased."

Insert the hearing date on which you wish the matter heard, allowing time for service.

The Order to Show Cause will require 10 days notice where personal service is made within the State, and 14 days notice where service is made by registered or certified mail on nonresidents. If there are persons who cannot be found, service is made by 2 weeks published notice and first class mail. Legal entities identified in Minn. Stat. §5.25 may be served pursuant to that statute, in which case the hearing date must be at least 30 days after mailing by the Secretary of State. If the United States is served, the hearing date must be at least 60 days after service.

2. Submit the Order to Show Cause to the Examiner of Titles office for approval.

After the Order to Show Cause has been approved, the Court Administrator will obtain a judge's signature on the Order to Show Cause and will file it. The Court Administrator will mail or deliver a copy of the Order to Show Cause to the Petitioner's attorney.

SECTION 5. SERVICE OF PROCESS.

The Order to Show Cause includes a statement regarding the time and manner of service on various persons. The Petition itself is not served (except in the case of service on the United States).

1. Service on Resident Individuals. Serve individuals named in the Order to Show Cause who can be found in Minnesota personally in accordance with Rule 4.03(a), Minn. R. Civ. P. at least 10 days prior to the hearing date on the Order to Show Cause.

2. Service on Nonresident Individuals and Foreign Legal Entities. If the address of a nonresident individual or a foreign legal entity is known, serve the individual or entity by registered or certified mail at least 14 days prior to the hearing date on the Order to Show Cause.

3. Service on Individuals who cannot be found. Serve individuals who cannot be found by (a) publishing the Order to Show Cause once a week for 2 consecutive weeks in a legal newspaper, and (b) mailing a copy of the Order to Show Cause to each individual by first class mail at the address of the individual stated on the Certificate of Title, if an address is stated, and (c) by mailing another copy of the Order to Show Cause to each individual by first class mail at the individual's last known address.

Each envelope should be addressed to only one individual. Do not address one envelope to more than one person.

Legal entities identified in Minn. Stat. §5.25 should be served in accordance with that statute.

4. Service on Legal Entities in Minnesota.

Corporations. Serve Minnesota corporations and corporations having an officer in Minnesota either (a) by serving an officer or agent in accordance with Rule 4.03(c), Minn. R. Civ. P. at least 10 days prior to the hearing date on the Order to Show Cause, or (b) in accordance with Minn. Stat. § 5.25. Minn. Stat. §302A.901. If service is made on the Secretary of State under Minn. Stat. §5.25, the hearing date must be at least 30 days after mailing by the Secretary of State.

Partnerships or Limited Liability Partnerships. **Serve Minnesota partnerships by serving a partner in accordance with Rule 4.03(b), Minn. R. Civ. P. at least 10 days prior to the hearing date on the Order to Show Cause.**

Limited Partnerships or Limited Liability Limited Partnerships. **Serve a limited partnership or limited liability limited partnership either (a) by serving a general partner in accordance with Rule 4.03(b), Minn. R. Civ. P. at least 10 days prior to the hearing date on the Order to Show Cause, or (b) in accordance with Minn. Stat. § 5.25. Minn. Stat. §322A.761.**

If service is made on the Secretary of State under Minn. Stat. §5.25, the hearing date must be at least 30 days after mailing by the Secretary of State.

Limited Liability Companies. **Serve a limited liability company either (a) by serving a manager at least 10 days prior to the hearing date on the Order to Show Cause, or (b) in accordance with Minn. Stat. § 5.25. Minn. Stat. §322B.876.**

If service is made on the Secretary of State under Minn. Stat. §5.25, the hearing date must be at least 30 days after mailing by the Secretary of State.

State of Minnesota. **Serve the State of Minnesota by serving the attorney general, a deputy attorney general or an assistant attorney general in accordance with Rule 4.03(d), Minn. R. Civ. P. at least 10 days prior to the hearing date on the Order to Show Cause.**

City. **Serve a city by serving the chief executive officer (usually the mayor) or the city clerk in accordance with Rule 4.03(e)(2), Minn. R. Civ. P. at least 10 days prior to the hearing date on the Order to Show Cause.**

Do not serve an “assistant” or “deputy” city clerk.

County. **Serve a county by serving the chair of the county board, the county auditor or a deputy county auditor in accordance with Rule 4.03 (e)(1), Minn. R. Civ. P. and Minn. Stat. §384.08 at least 10 days prior to the hearing date on the Order to Show Cause.**

United States. Service on the United States must be made in accordance with the requirements of federal law. 28 USC §2410.

(a) The Petition must set forth with particularity the nature of the interest or lien of the United States. If the interest of the United States involves a lien under the Internal Revenue laws, the Petition must include the name and address of the taxpayer whose liability created the lien, the identity of the internal revenue office which filed the notice of lien, and the date and place the notice was filed.

If the Petition does not contain the required information, prepare and file an Amended Petition containing the information.

(b) **Send 2 copies of the Order to Show Cause and 2 copies of the Petition (or Amended Petition) to the Attorney General of the United States at Washington, D.C. by registered mail or by certified mail.**

(c) **Serve a copy of the Order to Show Cause and a copy of the Petition (or Amended Petition) on the United States Attorney for the District of Minnesota, or on an Assistant United States Attorney, or on a clerical employee designated by the United States Attorney in writing filed with the Hennepin County District Court Administrator.**

(d) The United States may appear within 60 days after service; therefore, service must be made at least 60 days prior to the hearing date of the Order to Show Cause.

Town. **Serve a town by serving the chair of the town board or the town clerk in accordance with Rule 4.03(e)(3), Minn. R. Civ. P. at least 10 days prior to the hearing date on the Order to Show Cause.**

Do not serve an “assistant” or “deputy” town clerk.

School District. **Serve a school district by serving a member of the school board in accordance with Rule 4.03(e)(4), Minn. R. Civ. P. at least 10 days prior to the hearing date on the Order to Show Cause.**

Do not serve the Superintendent of the school district.

Other public body. **Serve a public body not enumerated above by serving a member of the board or other governing body in accordance with Rule 4.03 (e)(5), Minn. R. Civ. P. at least 10 days prior to the hearing date on the Order to Show Cause.**

SECTION 6. **PROOF OF SERVICE.**

1. Publication. Publication, if made, is proved by an Affidavit of Publication provided by the printer. Rule 4.06, Minn. R. Civ. P and Minn. Stat. §§600.10 and 600.11.

2. Personal Service. Personal service is proved either by (a) an Affidavit of Service, or (b) a written Admission of Service. Rule 4.06, Minn. R. Civ. P. The Affidavit or Admission must be signed under oath and notarized.

An Affidavit of Service which states that the Order to Show Cause was delivered to a person who is identified as the “attorney at law” for the named person will generally not be sufficient.

An Affidavit of Service which states that the Order to Show Cause was delivered to a person who is identified as “an agent” for the named person (with no further information or explanation) will generally not be sufficient.

3. Service on the Minnesota Secretary of State. Service made in accordance with Minn. Stat. §5.25 is proved by Receipt/Invoice provided by the Secretary of State.

4. Assent to Petition. A person may assent to the proceeding in lieu of being served with the Order to Show Cause. The Assent must be in writing and must be acknowledged. Minn. Stat. §358.48.

SECTION 7. THE HEARING.

1. Hearing Date. The hearing date is the date stated on the Order to Show Cause. Proceedings subsequent to initial registration are heard by the Examiner of Titles or a Deputy Examiner on the regular Land Title Calendar on Tuesdays at 2:00 p.m.

The Petitioner's attorney may request a continuance of the matter to a later specific Tuesday, in which case the Examiner or Deputy Examiner having the calendar may continue the matter.

If a matter has been continued a number of times without apparent progress, the Examiner may strike the matter. If a matter has been stricken and the Petitioner desires to proceed further, a Supplemental Order to Show Cause must be issued and all persons listed in the Report of Examiner must be named and served (even persons previously served with the original Order to Show Cause).

2. The Order. A general form of the Order recommended for use in Proceedings Subsequent may be found at the Examiner of Titles internet site: www.hennepin.us (keyword: Examiner of Titles).

Prepare the Order. Insert Findings and Order as recommended in the Report of Examiner.

3. Evidence: Affidavits and Documents. Evidence to support certain Findings called for in the Report of Examiner may be presented verbally at the hearing, or may be submitted prior to the hearing in the form of an Affidavit. The Petitioner's attorney is usually the most appropriate affiant.

Some Findings should be supported by documentary evidence and not by Affidavit. For example, a Finding that the property involved is not subject to delinquent real estate taxes should be supported by a certificate from the County Auditor.

4. Submitting Papers for the Hearing. Papers necessary to complete the files should be submitted to the Examiner of Titles in advance of the hearing.

At least 3 business days before the hearing, submit the following items to the Examiner of Titles office:

- (a) **proofs of service, including Affidavit of Publication if publication made;**
- (b) **a proposed Order;**
- (c) **evidentiary Affidavit, if any;**
- (d) **documentary evidence, if any;**
- (e) **a check in the amount of \$14, payable to the District Court Administrator for a certified copy of the Order (additional copies of the Order may be obtained: \$8 for uncertified and \$14 for certified);**

- (f) **a check payable to the Registrar of Titles for recording the certified copy of the Order.** The amount of the recording fee will vary depending on the number of memorials to be entered and the number of Certificates of Title, if any, to be issued. The amount of the recording fee may be verified with the Deputy Court Administrator in the Examiner of Titles office prior to the hearing.

If the attorney attends the hearing, the copy and recording fees may be submitted at the hearing.

5. The Hearing. Evidence in the form of verbal testimony may be presented at the hearing. However, if in lieu of testimony, an evidentiary Affidavit has been submitted prior to the hearing, it is not necessary for the Petitioner or the Petitioner's attorney to appear at the hearing.

6. Filing the Order. At the conclusion of the hearing, the Examiner of Titles will endorse the Examiner's approval on the Order.

The Deputy Court Administrator will obtain a judge's signature on the Order, file the document in the court file, make a certified copy of the document, and deliver the certified copy to the Registrar of Titles office. If judicial landmarks have been placed in a proceeding pursuant to Minn. Stat. §508.671, Subd.3, the Deputy Court Administrator will also deliver to the Registrar of Titles a certified copy of the survey showing judicial landmarks (see paragraph 7, below).

The Registrar of Titles will file the certified copy of the Order and enter memorials and take other actions as directed in the Order.

7. Special Case: Interlocutory Order. In a case where the Petitioner has requested that boundary lines be marked by the placement of judicial landmarks, after the hearing the Examiner of Titles will endorse the Examiner's approval on the Interlocutory Order (not on the final Order). A form of Interlocutory Order recommended for use in Proceedings Subsequent may be found at the Examiner of Titles internet site: www.hennepin.us (keyword: Examiner of Titles).

The Deputy Court Administrator will obtain a judge's signature on the Interlocutory Order and file the document in the court file.

Obtain a copy of the filed Interlocutory Order and deliver it to the Petitioner's surveyor.

After placing the judicial landmarks, the Petitioner's surveyor should prepare a plat of survey showing the location of each of the judicial landmarks. Minn. Stat. §508.671. The surveyor's certification on the plat should be in a form such as the following:

I hereby certify that pursuant to the Order of the District Court of Hennepin County, Fourth Judicial District, State of Minnesota, dated (date of Interlocutory Order) in Torrens Case No. _____, Judicial Landmarks have been placed as shown on the annexed plat. Each Judicial Landmark

consists of (describe size, shape and materials of judicial landmarks) with letters cut or marked thereon reading “judicial landmark.”

Contact the Examiner of Titles office by mail or phone (612-348-3191) to set the matter on for final hearing.

Submit to the Examiner of Titles 2 copies of the survey showing the placement of judicial landmarks (one of the copies should bear the original signature of the surveyor).

Generally, it will not be necessary for the Petitioner to appear at the final hearing.

SECTION 8. OBJECTIONS.

1. Appearance at the Hearing. If on the hearing date a person named in the Order to Show Cause appears, either in person or through the person’s attorney, to object to the entry of the Order, the Examiner of Titles or Deputy Examiner having the calendar will usually continue the matter for 2 weeks to allow the objecting person to file a formal Answer and pay the required filing fee. If an Answer is not filed by 2:00 p.m. on the continuation date, the Order will be approved by the Examiner on that date (if there exists no other reason not to approve the Order).

2. Answer. If an Answer is filed and not withdrawn, the matter is treated as a contested case. See the Instruction Manual regarding Contested Torrens Cases in Hennepin County, which may be found at the Examiner of Titles internet site: www.hennepin.us (keyword: Examiner of Titles).

SECTION 9. EXAMPLES.

1. THE ORDER TO SHOW CAUSE IS NOT TIMELY SERVED ON ONE OR MORE OF THE PERSONS NAMED IN THE ORDER TO SHOW CAUSE.

A Supplemental Order to Show Cause should be submitted, listing only the names of persons not properly served with the original Order to Show Cause and stating a new hearing date. The Supplemental Order to Show Cause should be served on the named persons as provided in the section on Service of Process.

Prior to the hearing date of the original Order to Show Cause, the Petitioner’s attorney should request that the matter be continued from the original hearing date to the new hearing date.

2. THE ORDER TO SHOW CAUSE CONTAINS AN ERROR.

If there is a substantial error in the land description, an Amended Order to Show Cause should be prepared and submitted. The Amended Order to Show Cause should be served as provided in the section on Service of Process.

If a person's name is missing or is substantially misspelled, a Supplemental Order to Show Cause should be submitted, listing only the one person and stating a new hearing date, if necessary. The Supplemental Order to Show Cause should be served on the named person as provided in the section on Service of Process. If the Supplemental Order to Show Cause contains a new hearing date, then prior to the hearing date of the original Order to Show Cause, the Petitioner's attorney should request that the matter be continued from the original hearing date to the new hearing date.

3. THE PETITIONER WISHES TO DISMISS THE CASE.

If no Answer has been filed by any person, the Plaintiff may file a Notice of Dismissal. Rule 41.01(a), Minn. R. Civ. P.

If an Answer has been filed, a Stipulation of Dismissal signed by the Petitioner and all persons who have answered may be submitted, along with a proposed Order for Dismissal. Rule 41.01(a), Minn. R. Civ. P.

In either case, if a certified copy of the Petition has been filed as a memorial on one or more Certificates of Title, in accordance with Minn. Stat. § 508.71, Subd. 2, the Petitioner's attorney may obtain from the Deputy Court Administrator a certified copy of the Notice of Dismissal or Stipulation and Order for Dismissal and request that the Examiner of Titles endorse on the certified copy a statement, such as "terminates Doc. No. (document number assigned by the Registrar of Titles to the certified copy of the Petition)." The certified copy may then be filed with the Registrar of Titles, who will omit the memorial of the Petition from future Certificates of Title.