

HENNEPIN COUNTY

MINNESOTA

Registering Possessory Title in Hennepin County

SECTION 1. OVERVIEW.

Possessory title registration under Minnesota Statutes Chapter 508A provides an administrative alternative to a judicial registration of title to land under Chapter 508. A possessory estate in land is a fee simple estate held by an owner who (1) has been found on examination by the examiner of titles pursuant to section 508A.13 to be the record owner of the land described; and (2) has satisfied the examiner of titles that the owner is in actual or constructive possession of the land. Hennepin County became the first county in the nation to allow possessory title registration when the Hennepin County Board of Commissioners approved its use on August 1, 1990.

Registration of possessory title is generally less expensive and can be completed more quickly than a judicial registration. The process does not involve the court and requires no publication or personal service of notice of the registration, other than by mail. Possessory title registration is recommended for uncontested titles when:

- Part of the owner's land is already registered. The double recording of documents becomes unnecessary.
- The owner desires protection against adverse possession or judgments against someone with the same or similar name.
- Development or sale of the land is anticipated, and the owner desires the certainty of registered title.
- A planned condominium encompasses registered and not registered land.
- Owners, including cities, wish to simplify the records of their land ownership and end the necessity of maintaining abstracts.

SECTION 2. PROCESS.

1. The owner sends a signed Application to the examiner of titles office, with checks for \$135.00 payable to the Examiner of Titles and \$46.00 payable to the County Recorder. Application forms are available at: www.hennepin.us (Search: Examiner of Titles). The owner should also submit an abstract of title, a survey, a title commitment, or other evidence of title in the owner's possession.

2. The Examiner of Titles reviews and approves the Application, files it with the County Recorder, and notifies the owner of any further abstracting requirements.

3. The Examiner issues a Report of Examiner if a title examination shows that the applicant has possessory title as defined in Chapter 508A. If title is insufficient, the Examiner will notify the owner and the owner may proceed with an initial registration under Chapter 508 instead. The fees paid for the CPT application are not refundable.

4. The Report of Examiner and a Certificate of Mailing will be sent to the owner or owner's attorney. The owner or attorney obtains and enters a current mailing address for each party named in the Certificate of Mailing, signs the Certificate of Mailing, and returns it to the Examiner of Titles office together with one stamped, pre-addressed envelope for each party, with the return mailing address as Examiner of Titles, A-701 Government Center, 300 S. 6th St., Minneapolis, MN 55487-0071.

5. The Examiner's office sends a Notice of Application for Certificate of Possessory Title to each party and completes an Affidavit of Mailing. The Notice informs parties that the applicant has applied to register possessory title to the land described in the notice, subject only to the rights, titles, estates and liens listed in the notice, and that the person receiving the notice has 20 days to make a valid written objection.

6. If no objection is received by the Examiner's office within 20 days of mailing the Notice, the Examiner will send the owner or owner's attorney a form affidavit calling for disclosure of any recent matters affecting the land, such as judgments or conveyances. If an objection is received, it must be withdrawn before a CPT can issue.

7. The owner completes the affidavit and sends it to the Examiner's office with a check for \$46.00 payable to the Registrar of Titles.

8. The Examiner of Titles directs the Registrar of Titles to issue the first CPT. A copy of the CPT is sent to the owner or owner's attorney. The abstract or other evidence of title is retained by the examiner of titles upon issuance of the Certificate of Possessory Title. See Minn. Stat. § 508A.11, Subd. 2 for return of the abstract.

SECTION 3. EFFECT OF CPT REGISTRATION.

1. No action affecting the title to or possession of the land, based on an interest created before the entry of the first CPT may be commenced unless a Notice of Lis Pendens is filed within 5 years after the date of the first CPT, Minn. Stat. § 508A.17, Subd. 1.

2. A CPT will change over to a regular Certificate of Title when 5 years have elapsed from the date the CPT was issued, Minn. Stat. § 508A.85. The examiner's directive will continue to be carried on the certificate of title to show that it is subject to the rights of the parties in possession, if any, Minn. Stat. § 508A.22.