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 submits a certificate of possessory title application to the examiner of titles office, along with checks for fees in the amount of $135.00 payable to the registrar of titles and $56.00 payable to the county recorder. Minn. Stat. §508A.06 sets out the contents and requirements. Forms are available on the examiner of titles webpage, www.hennepin.us (keyword: Examiner of Titles). The examiner will review the application and either approve it or return it for corrections.

2. Once the application has been approved, the examiner will request the applicant to file an abstract of title.
3. The examiner will review the abstract and public records to determine that the applicant has possessory title as defined in Chapter 508A. If the title is sufficient, the examiner will record the application with the county recorder and issue a Report of Examiner, setting out all rights, titles, estates, liens and interests in the property.

4. The examiner will send the report and a Certificate of Mailing to the applicant or the applicant’s attorney. The applicant or attorney enters the addresses of the persons identified in the examiner’s report as holding any right, title, estate, lien or other interest in the property on the Certificate of Mailing and returns it to the examiner’s office along with stamped envelopes addressed to such persons, using the examiner of title’s address as the return address. If the address of any person entitled to notice cannot be ascertained after a due and diligent search, the applicant or the applicant’s attorney shall certify that fact.

5. The examiner’s office will prepare and mail a Notice of Application for Certificate of Possessory Title, Minn. Stat. § 508A.13 Subd. 5. The notice will state that the applicant has applied to register possessory title to the land described in the notice, subject only to the rights, titles, estates, liens listed in the notice, and that the person receiving the notice has 20 days to make a valid written objection. The examiner will complete an affidavit of mailing.

6. If any objection to the registration is made to the applicant, the applicant’s attorney or the examiner’s office, the registration will not proceed unless the objection is withdrawn. The applicant may convert the possessory registration to a judicial registration to address the objection.

   If no objection has been made within 20 days after the notice was mailed, the examiner will send the applicant a form affidavit calling for disclosure of any recent matters affecting the land, such as judgments or conveyances. When the applicant returns the completed affidavit with a check for the filing fee ($46.00 payable to the registrar of titles), the examiner will issue a directive to the Registrar to issue the first Certificate of Possessory Title in the name of the applicant, subject only to the exceptions set out in Minn. Stat. §508A.25, memorials of outstanding interests and a memorial of the examiner’s directive.

7. The examiner’s office will deliver the CPT directive, the applicant’s check for the filing fee and the abstract to the registrar of titles, who will keep the abstract. A copy of the directive and a notice stating the date the directive was filed with the registrar will be sent to the applicant or the applicant’s attorney.

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.

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