

Memorandum

To: All Registry Districts, Registered Land Division

From: Christina T. Geaney, Esq., Chief Title Examiner

Date: January 27, 2025, effective February 2, 2025

Subject: Land Court Guideline 63 (Voluntary Withdrawal, G.L. c. 185, § 52) and Guideline 64 (Withdrawal From Registration, G.L. c. 183A, § 16)

THIS MEMORANDUM SUPERSEDES LAND COURT GUIDELINE 63 AND LAND COURT GUIDELINE 64

The legislature has enacted, and the Governor has signed into law, Chapter 150 of the Acts of 2024 (the “Act”).¹ Sections 46 and 48 of this Act make changes to the statutes concerning the voluntary withdrawal of property from the registration system (G.L. c. 183A, § 16 and G.L. c. 185, § 52). Pursuant to Section 143 of the Act, these changes take effect on February 2, 2025.

The Act removes reference to voluntary withdrawals from the Condominiums statute, G.L. c. 183A, § 16.² Accordingly, all complaints for voluntary withdrawal will be administered by the court under the procedures set forth in G.L. c. 185, § 52. Additionally, the Act authorizes the chief justice of the Land Court or a designee to establish rules, practices, guidelines, forms or procedures for this process.

The Act also amends G.L. c. 185, § 52, to provide an updated process for both private and public registered landowners to withdraw their registered land from the provisions of the Registration Act, G.L. c. 185. Under the Act, all private owners of registered land have the right to withdraw from the registration system and no longer need to establish statutory grounds or good cause for obtaining withdrawal. Moreover, the Act no longer *requires* the court to appoint an external title examiner to identify the owners and interest holders entitled to notice. Further, the Act provides a procedural mechanism for the Plaintiff(s) to provide notice of the action

¹ Available at: [Chap. 150 of the Acts of 2024 \(mass.gov\)](https://www.mass.gov/info-details/chapter-150-of-the-acts-of-2024).

² Effective February 2, 2025, G.L. c. 183A, § 16 will read as follows: “[t]he owners of any land may submit the land under this chapter by the recording in the registry of deeds of a master deed or, if the title to the land is registered under chapter 185, by filing the master deed under said chapter 185.”

to interest holders entitled to notice under the statute and file proof of service with the Court.

The Act continues to permit registered land acquired by the Commonwealth, its agencies/departments and political subdivisions (“public entity”) to be withdrawn from the registered land system.³ As detailed below, under the Act, registered land owned by a public entity can be withdrawn by filing a complaint with the Land Court and subsequently registering a court-endorsed notice of withdrawal by the public entity in the registry district where the land is located.

The Process for Withdrawal Under G.L. c. 185, § 52.

1. File with the Land Court in Boston a Complaint for Voluntary Withdrawal of Land from the Registration System⁴ and a Notice of Voluntary Withdrawal⁵ or Notice of Withdrawal by Public Entity.⁶
 - A. A Complaint for Voluntary Withdrawal of land must list all current owner(s) of registered land⁷ and identify any mortgagees, lessees, or option holders of record having an interest in the registered land.⁸ This

³ Pursuant to the Act, such registered land owned by a public entity must be “all of a parcel of land, the title to which is registered under this chapter” Accordingly, withdrawals by a public entity pursuant to this section shall be limited to a designated lot or parcel of land depicted on a Land Court Plan.

⁴ The Complaint for Voluntary Withdrawal of Land from the Registration System pursuant to G.L. c. 185, § 52, Land Court Form LC-SBQ-SVW, is for both private owner(s) and public entities. The Complaint is available on the Land Court’s website, Forms webpage, at <https://www.mass.gov/lists/land-court-forms>.

⁵ Notice of Voluntary Withdrawal of Land from the Registration System pursuant to G.L. c. 185, § 52, Land Court Form LC-VW-NOTPRIVWD, available on the Land Court’s website, Forms webpage, at <https://www.mass.gov/lists/land-court-forms>.

⁶ Notice of Withdrawal of Land by Public Entity from the Registration System pursuant to G.L. c. 185, § 52, Land Court Form LC-VW-NOTPUBWD, available on the Land Court’s website, Forms webpage, at <https://www.mass.gov/lists/land-court-forms>.

⁷ If the plaintiff-public entity is not the registered owner of the land, the plaintiff-public entity must first file a separate complaint subsequent to registration to have a new certificate of title issued in its name prior to withdrawal. In that separate case, the plaintiff-public entity must identify the registered document of acquisition, describe its authority to acquire the land, and provide evidence that it complied with all requirements of the Massachusetts General Laws relative to the acquisition.

⁸ The Complaint must be signed by a Massachusetts attorney if the Plaintiff(s) is/are a corporation, limited liability company, and/or limited partnership, trust, or public entity.

includes any mortgagees, lessees, or option holders listed on the face or on the memoranda of encumbrances for the certificate of title.

- B. Plaintiffs may file written and signed assents from any mortgagees, lessees, or option holders of record (hereinafter “interest holders”) with their complaint.
 - C. If the Plaintiff(s) is a/are private owner(s), they must file a Notice of Voluntary Withdrawal with the complaint, which must be signed and acknowledged (and if applicable, in a representative capacity with any authority document) by all owners of the land to be withdrawn and contain the applicable information set forth in the statute.
 - D. If the Plaintiff is a public entity, it must file a Notice of Withdrawal by Public Entity, which must be executed and acknowledged by an individual with authority, and evidence of that authority document is to be furnished to the court. This notice must contain the applicable information set forth in the statute.
2. The court *may* appoint⁹ an external title examiner upon Plaintiff’s/Plaintiffs’ request or upon the court’s “determination of reasonable need.” Reasonable need may include an instance where the current certificate of title is not prepared or up to date.
3. *After* filing the complaint and notice, Plaintiff(s) must serve, by certified mail, on all interest holders who have not assented to the complaint, a Notification of Complaint for Voluntary Withdrawal of Land from the Registration System,¹⁰ and a Land Court file-stamped copy of the Complaint for Voluntary Withdrawal of Land from the Registration System and Notice of Voluntary Withdrawal. The court may order that further notice be given by additional means if necessary to accomplish effective service.

⁹ Fee Generating Appointees in Land Court cases are impartial attorneys qualified to serve in the appointed role, chosen in accordance with the procedures set forth in Supreme Judicial Court Rule 1:07.

¹⁰ Notification of Complaint for Voluntary Withdrawal of Land from the Registration System, G.L. c. 185, § 52, Land Court Form LC-VW-NOTCMP, available on the Land Court’s website, Forms webpage, at <https://www.mass.gov/lists/land-court-forms>. This form must be served with the file-stamped copy of the Complaint for Voluntary Withdrawal of Land from the Registration System and Notice of Voluntary Withdrawal.

4. Thereafter, Plaintiff(s) must file, with the court, an affidavit certifying that notice by certified mail (or as required by the court) has been given to all interest holders, together with proof of service. If Plaintiff(s) is/are represented by counsel, the affidavit must be executed by counsel. The court has published a form affidavit certifying notice has been served.¹¹
5. Within thirty (30) days of receipt of all required information and documentation, the court will proceed with endorsing the Plaintiff's/Plaintiffs' notice of voluntary withdrawal.¹²
 - A. To proceed, Plaintiff(s) must have submitted *accurate and completed court forms* as well as proof that all interested parties have either assented to withdrawal or have been timely served with a copy of the complaint and notice of withdrawal, with no objections filed.
 - B. If objections are filed, the matter will be treated as contested, and the case will be assigned to a justice of the court to determine whether good cause exists for such objections.
6. Upon approval and endorsement by a justice of the court, the Plaintiff(s) must file the Notice of Voluntary Withdrawal or Notice of Withdrawal by Public Entity at the applicable registry district.¹³ The registry district will then notify¹⁴ the Land Court Registered Land Department and Survey Division to verify the filing of the Notice of Withdrawal, with the document number and date of filing.
7. The land is then withdrawn from the registration system, the certificate of title is cancelled, and all further instruments related to the land shall be filed on the recorded side of the Registry of Deeds. As of the date the judicially endorsed Notice of Voluntary Withdrawal is noted on the memorandum of encumbrances, the owner(s) hold title to the land as though a judgment of confirmation without registration had been recorded under § 56A, subject to any encumbrances set

¹¹ Affidavit Certifying Service for Voluntary Withdrawal of Land from the Registration System, G.L. c. 185, § 52, Land Court Form LC-VW-AFFSVW, available on the Land Court's website, Forms webpage, at <https://www.mass.gov/lists/land-court-forms>.

¹² Pursuant to the statute, the court may determine that further time is needed.

¹³ Prior to registration, the registry district will review the applicable certificate of title from the date of the endorsement to identify any new owners, mortgagees, or lessees. If any are identified, they will return the documents to the submitter for further processing with the Registered Land Department.

¹⁴ Utilizing the Voluntary Withdrawal of Land from the Registration System (G.L. c. 185, § 52), Land Court Form ORWD, that is sent to the registry with the Court's Endorsement.

forth in § 46, and those noted on the certificate of title or filed for registration before the date the endorsed notice of voluntary withdrawal is noted on the memorandum of encumbrances.