Land Court Standing Order No. 1-21: Dismissal Without Prejudice of Prematurely Filed Complaints for Certificate After Death

A Complaint for Certificate After Death¹ (a "Complaint"), which requests a new certificate of title, memorandum of unit ownership, or memorandum of timeshare interval ownership, following the death of a registered land owner, must be filed in accordance with the time parameters set forth in <u>G.L. c. 185, § 97</u>. Accordingly, a Complaint shall not be filed with the Land Court unless the entry of judgment in an appropriate probate proceeding has become final, with either no appeal having been taken within the applicable time limit, or any appeal taken having resulted in the entry of judgment pursuant to the rescript of the Supreme Judicial Court or Appeals Court.

Whenever a Complaint is filed prematurely with the Land Court based upon informal probate proceedings, or a formal decree that does not result in a determination of heirs and testacy, or a proceeding that does not comport with the Methods outlined in the Land Court Chief Title Examiner Memorandum Re: Land Court Guideline 14. Death: The Effect of Death upon Registered Land Titles, dated October 31, 2019, or any updates thereto, the court, on its own initiative, shall dismiss the Complaint without prejudice, unless the court for good cause otherwise orders. The Complaint may thereafter be refiled upon compliance with G.L. c. 185, § 97, and all applicable Land Court Registered Land Guidelines and Chief Title Examiner Memoranda.

Adopted June 30, 2021; effective August 2, 2021.

<u>/s/ Gordon H. Piper</u> Gordon H. Piper Chief Justice of the Land Court

¹ The Form Complaint for Certificate After Death (SAD) may be downloaded from the Land Court's website: https://www.mass.gov/doc/complaint-for-certificate-after-death/download