

[Proposed] Land Court Standing Order _-21: Remedies for Void Provisions Under Chapter 184, § 23B

I. Complaint to Declare Certain Provisions Void Under Chapter 184, § 23B

Pursuant to G.L. c. 185, § 1(k) and c. 185, § 114 (in the case of registered land), an owner of land, the Recorder, a Register of Deeds (including a Register of Deeds acting as Assistant Recorder of the Land Court), or other person having an interest in said land may file a complaint with the Land Court, at no cost to the plaintiff, requesting a declaration that (a) an instrument or document in the chain of title of said land contains a provision that violates G.L. c. 184, § 23B; and, therefore, (b) such provision is void.

The Land Court may hear and determine the complaint and, after notice to any person adversely affected, as the court shall in its discretion determine, may order the entry of a declaratory judgment, a new certificate of title, the entry or cancellation of a memorandum upon a certificate of title, or any other relief upon such terms as the Court may consider proper.

II. Mandatory Legend Regarding Provisions That Are Void Under Chapter 184, § 23B

After the effective date of this Standing Order, all (a) certificates of title and (b) memoranda of condominium unit ownership thereafter issued by the Registration Districts of the Land Court shall contain this legend:

Any term in any instrument or document affecting anyone's right, title or interest in the lands affected by this [certificate of title] [memorandum of unit ownership] that purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease of such lands to individuals of a specified race, color, religion, national origin or sex is void. Any condition, restriction or prohibition, including a right of entry or a possibility of reverter, contained in any instrument or document affecting anyone's right, title or interest in such lands that directly or indirectly limits the use for occupancy of real property on the basis of race, color, religion, national origin or sex is void, excepting a limitation on the basis of religion on the use of real property held by a religious or denominational institution or organization or by an organization operated for charitable or educational purposes which is operated, supervised or controlled by or in connection with a religious organization.