

OUTLINE FOR WITHDRAWAL FROM REGISTRATION
(See Chapter 183-A § 16)

If a condominium is to contain both registered and recorded land, the registered portion may be withdrawn from the provisions of Chapter 185 pursuant to G.L. Chapter 183A § 16.

In a withdrawal pursuant to G.L. Chapter 183A, § 16, the condominium documents are not reviewed and allowed by the Land Court. The Master Deed, Condominium Trust or Association document, site plans and floor plans are recorded on the unregistered side of the Registry of Deeds. The petition and notice referred to in Step 2 below are filed and registered simultaneously with the recording of the condominium documents.

The following steps outline the withdrawal procedure under G.L. Chapter 183A, § 16.

STEP I: Preliminary action to be taken by petitioner prior to recording of Master Deed and Condo Plan

- 1.) In preparing Master Deed be sure it describes the registered land as it appears on outstanding certificate as "Parcel 1" followed by the recorded land parcel - "Parcel 2". It is wise to list after the registered land parcel all outstanding registered interests (i.e., rights of way, easements, mortgages, etc.) from the certificate of title.
- 2.) Obtain a certified copy of the outstanding certificate(s) to submit with complaint.
- 3.) Prepare a print of condominium plan showing location of the registered land (delineated in red) and the existing buildings and proposed buildings to submit with complaint.

STEP 2: Preparation of complaint to withdraw under Chapter 183-A, § 16

- 1.) Draft an original complaint which must be signed by the owner (usually the declarant in the Master Deed) or attorney under oath and acknowledged. If signer is a corporation, a vote is needed authorizing the officer to sign if it is not signed by President and Treasurer. Proper authority document should accompany any other complaint.

Complaint should state that the Master Deed has been recorded (attach an attested copy of the recorded Master Deed as an exhibit). The assents of all outstanding mortgagees and lessees on the certificate of title should also be attached as exhibits. An assent cannot be conditional. A copy of the condominium plan should also be an exhibit. The filing fee is \$50.00 and the complaint is treated as an "S" Petition.

- 2.) Prepare "Notice of Intention to Withdraw from Registration under G.L. C. 183A § 16".

This may be signed by the attorney. Once this is on record assents from future buyers of units and mortgagees will not be required. Once your petition is filed with the Court, register your notice on the outstanding certificate. A sample notice is attached hereto.

NOTE: This is **not** the Notice of Withdrawal form which is used in a G.L. C. 185 § 52 proceeding.

- 3.) The Court will order a title examination by a Land Court Title Examiner. This report is to disclose the mortgagees and lessees that have an interest in the land being withdrawn from registration. The recording of the Master Deed and Condominium trust as well as deeds of units, mortgages, etc. must be noted. abstract of title should run up to the date of recording of the notice of “Intention to Withdraw from Registration” under Chapter 183A, § 16.

STEP III: Notice

- 1.) Assents of holders of mortgages and leases.
- 2.) For those that refuse to assent, the Court will issue a citation with a return date. Notice will be sent via certified mail, return receipt requested.

STEP IV: Decree of Court

- 1.) When the necessary papers have been submitted and checked, an order is prepared which is then presented to a Justice to have allowed.
- 2.) The attorney receives the court order which is then to be registered and noted on the outstanding Certificate of Title. The property is then withdrawn from registration.

