

**COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT**

**CHECKLIST FOR VOLUNTARY WITHDRAWAL OF LAND FROM THE
REGISTRATION SYSTEM UNDER PROVISIONS CHAPTER 185, SECTION 52, AS
AMENDED BY CHAPTER 413 OF THE ACTS OF 2000**

1. Complaint, signed by either the registered owners or their lawyer, accompanied by an executed “Notice of Withdrawal”, on the Land Court form, which must be signed by all of the owners. The basic form of complaint is available from the Land Court, but must be augmented with allegations and exhibits, as necessary (see items 7, 8, and 9 below.)
2. \$50.00 filing fee
3. Attested copy of certificate of title
4. If a) the registered land constitutes less than 50 per cent of the total area of a single parcel or of two or more contiguous parcels in common ownership, or b) the registered land consists of less than 10 per cent of the land area shown on the decree plan to which the original certificate of title pertains, the rest of the land area to which such certificate pertains having been conveyed since the original registration under this chapter, then in either case, Plaintiffs must submit proof that their situation falls within the applicable clause by attaching to the complaint relevant plans and deeds, which support the allegations in the complaint. There will be a review by the Engineering Department of all complaints filed under clauses (a) and (b).
(The court may require a certificate from a registered engineer or land surveyor to verify land area percentages.)
5. In those cases where Plaintiffs allege they have submitted the land to the provisions of Chapters 183A or 183B, or have created interests in the land to which Chapter 183B is applicable pursuant to Section 3 of chapter 760 of the acts of 1987 (clause c), Plaintiffs must submit proof of the facts alleged.
6. When withdrawal is sought for other good cause, under clause (d), the complaint must set forth with specificity the grounds upon which the court is asked to find “good cause”.
7. Title examination by a Land Court examiner is required. The court will appoint an examiner pursuant to SJC Rule 1:07. (Any request for a non sequential appointment in accordance with the Rule must be made at the time of filing the complaint.) When the court appoints an examiner, it will send the Notice of Appointment to Plaintiffs’ attorney, who is responsible for sending the Notice of Appointment to the examiner, together with a copy of the complaint.

8. The title examination should run from the date of the outstanding certificate of title and list all of the owners, mortgagees, and lessees, with an address for each.
9. Notice to all mortgagees and lessees of record is required. If Plaintiffs do not submit the assents of all mortgagees and lessees, a citation will issue. Upon receipt of assents from all those entitled to notice, or their default, the case will be treated as an ex parte matter, and presented to the court for its consideration. If any party notified files an opposition to the complaint, the case will be treated as a contested case, to be resolved according to the penultimate sentence of Section 52.
10. Upon the filing of the Notice of Voluntary Withdrawal endorsed by a justice of the court with the appropriate registry district, the land described in the Notice shall be deemed withdrawn and shall become unregistered land, and the owners shall hold title thereto at the time of such filing “free of all liens and encumbrances, including adverse possession and prescriptive rights, except those set forth or referred to in section 46 and those noted on the certificate of title or filed for registration before the filing of the notice of voluntary withdrawal, as though a judgment of confirmation without registration had been recorded under section 56A.”
11. The Chief Title Examiner and Engineering Department will receive from the local registry district verification of the filing of the Notice of Withdrawal, with the document number and date of filing.
12. Plaintiffs’ counsel should be aware that he or she may want to record a copy of the Notice of Withdrawal on the unregistered side of the Registry to provide a starting point for the title on the unregistered side.