

FORM 4.04A  
(Rule 4.04(2))

Rules of the Supreme Court of Newfoundland, 1986

PRACTICE NOTE

PN. No. 2000-3

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The following Practice Note was filed with the Registrar, as Secretary of the Rules Committee of the Trial Division, and is published pursuant to rule 4.04 of the Rules of the Supreme Court, 1986:

**QUIETING OF TITLES APPLICATIONS: PUBLICATION OF NOTICES**

Background

1. Subsection 12(1) of the Quieting of Titles Act, RSN 1990, c. Q-3 provides that before a certificate of title is granted or conveyance made under the Act, the judge hearing the application shall direct a notice of the application to be published in the Gazette and where he or she thinks it appropriate, in one or more newspapers, “in a form, and for a period that the judge considers appropriate”.
2. In stipulating the form of the notice to be published the practice has developed of requiring that, where possible, the notice have annexed to it a copy of a land surveyor’s diagram of the land referred to in the notice. This practice is authorized by ss. 12(4) of the Act.
3. The Court of Appeal decision in Board of Education of Bonavista – Trinity – Placentia Integrated School District v. United Church of Catalina (1994), 124 Nfld. & P.E.I.R. 1 emphasizes the importance of ensuring that all potential adverse claimants have a realistic possibility

of becoming aware of the ownership claim that is the subject of a quieting of title application. Accordingly, it is important that the land surveyor's diagram attached to the notice that is published be sufficiently legible to enable persons reading the notice to determine the location of the property that is being claimed.

4. It has recently come to the Court's attention that the land surveyor's diagram, as published in the Gazette and newspapers, has, on occasion, been reproduced in so small a format that many of the details on the diagram, including bearings, distances and descriptive words, are illegible. To the extent that this prevents potential adverse claimants from being made properly aware of the nature, location and boundaries of the land being claimed, the purpose of the notice provisions of the legislation will be frustrated.
5. The judge hearing a quieting of titles application must be satisfied, before granting a certificate of title, that the requirements of the Act, including those respecting notice, have been followed. Section 16 of the Act specifically authorizes the judge to "require further publication to take place or another notice to be mailed or served which he or she considers necessary".

#### Practice Direction

6. Accordingly, notice is hereby given that counsel obtaining orders for publication of a notice of claim in a quieting of title application will be expected to ensure that any land surveyor's diagram attached to any such notice be reproduced, on publication, in a size that is sufficiently legible to enable persons reading it to ascertain with reasonable particularity the nature, location and boundaries of the land which is the subject of the claim. Failure to do so may result in the judge ordering further, more legible, publication before granting the requested certificate of title, if the judge is satisfied that the original publication did not result in a reasonable opportunity for persons affected by the application to be made aware of the potential impact on their interests.

AUTHORIZED BY: