



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM TO COUNCIL

From: Lisa Wight and the Professional Standards (Real Estate) Committee

Date: November 26, 2021

Subject: Professional Standards (Real Estate) 3.16 Expropriations

For:	Approval <input type="checkbox"/>	<u>Introduction X</u>	Information <input type="checkbox"/>
DATE	Council		Introduction
November 26, 2021			
	Council		Approval

Recommendation/Motion:

This is the introduction to Council of revised standard 3.16 - Expropriations – by the Professional Standards (Real Estate) Committee. Following introduction, the standard will be circulated to the membership for review and consultation. The Committee will review any comments received and then present the final form, amended if necessary, to Council for approval. An equity lens was applied while revising this standard and the Committee has submitted it for review by the Equity Committee in accordance with the Equity Lens Application in Policy Development – Guidelines, as approved by Council on May 5, 2021. We are awaiting comments from the Equity Committee.

Executive Summary:

After annual review, the Committee determined that the current standard, approved by Council on November 22, 2002, required updating to align with current practice and legislation.

Exhibit:

Revised Standard 3.16 – Expropriations - with rationale for the revisions.

Existing Standard	Proposed Standard	Rationale
<p>STANDARD</p> <p>A lawyer may certify title which has an expropriation in fee simple as the root of title.¹</p> <p>When preparing an abstract of title, a lawyer must determine if there are expropriations affecting the parcel being searched.²</p> <p>When the lawyer identifies an expropriation affecting a parcel, the lawyer must examine the certificate of expropriation to determine the nature of the interest expropriated. The lawyer must explain the expropriation to the client and confirm the client’s instructions prior to closing.³</p>	<p>STANDARD</p> <p>A lawyer may certify title in fee simple where the root of title commences with the required expropriation documents evidencing that a fee simple interest was expropriated.</p> <p>When preparing an abstract of title, a lawyer must determine if there are expropriation documents affecting the parcel being searched.</p> <p>When the lawyer identifies expropriation documents affecting a parcel, the lawyer must examine these documents to determine the nature of the interests expropriated. The lawyer must explain the nature of any expropriated interests to the client and confirm the client’s instructions prior to closing.¹</p>	<p>The Committee reviewed the current standard which was approved on November 22, 2002 and determined that amendments were needed to more accurately reflect the current <u>Expropriations Act</u>. Changes were also needed to the footnotes to remove an outdated article and one containing inaccurate information concerning the parcel registry.</p>

FOOTNOTES

1. A.G.H. Fordham, "Certification of Title to Expropriated Land", in *Practical Property* 1984 (C.L.E.S.N.S., October 1984)
2. After an interest in a parcel has been registered pursuant to the *Land Registration Act*, any expropriation would appear in the parcel register: *Land Registration Act*, S.N.S. 2001, c. 6, s. 29
3. Standard 1.5 - Documentation of Advice and Instruction

Approved by Council on November 22, 2002

FOOTNOTES

1. Standard 1.5 - Documentation of Advice and Instruction