

GUIDELINES - APPLICATIONS FOR BAIL IN HIGH COURT USING LAND AS SECURITY

In some instances, persons seek to use their property or parcel of land as security for bail in the High Court of Barbados.

Where the parcel is located within a Registration District and has been registered, an Application must be made for the Registration of a Caution. In such a circumstance, all the necessary title deeds must also be deposited at the Land Registry in order to facilitate the issuance of a Certificate of Title. This Certificate will contain entries which recognize the interest of the Supreme Court.

Where the parcel has not been registered, the officers at the Supreme Court are required to retain possession of the original title deeds as security for the bail.

STEP 1

After the surety has been approved by the Judge, the Registrar of the Supreme Court issues of a letter (in duplicate) to the Registrar of Titles. This letter advises the Registrar of Titles that the Supreme Court has granted bail to an accused and indicates the name of the surety and the address of the property to be used as security. **IT IS ADVISED THAT A COPY OF THE LATEST LAND TAX BILL BE PRODUCED IN ORDER TO ASSIST THE LAND REGISTRY IN DETERMINING WHETHER THE PARCEL HAS BEEN REGISTERED.**

All letters issued by the Registrar of the Supreme Court with respect to Bail Security must be opened by Land Registry Personnel only. They should not be tampered with by the Attorney-at-Law or his/her legal clerk.

STEP 2

Once received by the Land Registry, the Letter(s) will be stamped with the date stamp. The letter is forwarded to the Registration Section at the Land Registry which is responsible for verifying whether the land being used as security is a registered parcel.

a) When Land **is not** Registered:

- i. Both copies of the letter issued by the Supreme Court must be stamped with the appropriate stamp
- ii. The spaces provided in the stamp must be filled in with the location of land being used to secure bail. The stamp is then signed on behalf of the Registrar of Titles.
- iii. One copy of the letter is kept by the Land Registry and given to the receptionist to be recorded in the Land Registry's mail book. The second copy of the letter is returned to the Supreme Court. (If there is no copy, a photocopy of the original is made which is sent to the Supreme Court as required).

b) When Land falls within a Registration District but **has not been Declared**:

- i. A Memo is prepared to the Registrar of the Supreme Court confirming that the parcel falls within a Registration District but has not been declared. In this circumstance, the Registrar of the Supreme Court should retain the title deeds for the parcel as collateral.

c) When Land is Registered:

Once the Registrar of Titles has determined that the Parcel has been registered, the following steps should be followed:

- A memo is prepared to the Registrar of the Supreme Court confirming that the parcel is registered.
- The Attorney-at-Law has to prepare and present one copy of the Application to Register Caution (LR 36) and two copies of the Notice of Caution (LR 37). They should both carry the Drawn and Prepared stamp of the Attorney-at-Law responsible for their preparation.
- The Application to Register a Caution should be registered at the cost of Twenty dollars (\$20.00);
- The Notice of Caution should be placed on the file at the Land Registry;
- On the registration of the Application, the Land Registry will inspect the file to determine
 - whether the First Registration Fees have been paid,
 - whether all original documents including an original plan are on file, and
 - that they are no existing Charges on the register.

NB

Where the parcel is owned by more than one proprietor (and only one is the surety), the proprietor (non-surety) must Consent to the use of the parcel as security for the Bail. This Consent must be witnessed by an Attorney-at-Law or Legal Assistant;

NB

If there is a Charge, the Financial Institution or Individual who holds an interest in the parcel must give permission for the parcel to be used as collateral for bail. **Where there is a charge, no Certificate is forwarded to the Registrar of the Supreme Court. The Certificate of Charge will remain in the Chargee's possession. The Notice of Registration of Caution is entered on the Land Register and the Registrar of the Supreme Court is informed, by way of memo, of the entry.**

- Once the Land Registry has determined that the file is in order, the Notice of Caution is signed and dated by the Registrar of Titles. Once signed, the attorney who registered the Application to Register a Caution is contacted and he/she is advised that the Notice is ready to be registered. The Registration Cost of the Notice is \$20.00 which must be paid before a Certificate can be issued. The Notice of Caution is to be sealed by the Land Registry before it is issued to the Proprietor.
- An Application for a Certificate of Title (LR 5) should also be registered at this time. The registration fee for this Application is Fifty dollars (\$50.00). Where this is the first Certificate of Title being issued after the First Registration fees have been paid and the proprietor is the same as when the parcel was first registered, this Application and the corresponding fee is waived.
- After registration of the Notice and the Application for a Certificate (if required), the preparation of the Certificate of Title is expedited.
- After the Certificate has been signed and is ready to be issued, a memo is prepared enclosing the Certificate to the Registrar of the Supreme Court. A letter to the proprietor(s) notifying him/her/them that a caution has been lodged against the property is also prepared and a copy of the registered Notice is enclosed.
- The Attorney responsible for submitting the Instruments is contacted and is required to collect:
 - an envelope addressed to the Registrar of the Supreme Court containing the original Certificate of Title; and

✚ an envelope addressed to each proprietor(s) containing the letter from the Registrar of Titles and a copy of the signed and registered Notice of Caution.
The Attorney is required to sign as collecting these documents.

The Certificate should be kept by the Supreme Court until the criminal matter is disposed of.

Once the criminal matter has been completed at the Supreme Court, the Certificate issued to the Registrar of the Supreme Court must be returned to the Land Registry. In order to have a new Certificate of Title issued after the removal of the Caution from the Register, the following documents must be registered by the proprietor:

- ✚ an Application for a Certificate (LR 5 form); and
- ✚ an Application for Withdrawal of Caution (LR 38).

The cost to register these instruments are fifty dollars (\$50.00) and thirty dollars (\$30.00) respectively. A new Certificate will be issued to the proprietor(s) omitting the entry detailing the Caution.

All Applications signed by the Registrar of the Supreme Court (namely the Application to Register the Caution and the Application for the Withdrawal of Caution) should bear the Registrar's seal.