

# E-Registration is Alive and Well in Middlesex

By Norman MacInnes

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**E**lectronic registration is here," Jennifer A. Smout, Assistant City Solicitor of the City of London, Ont., emphasized to registrants at the Canadian Bar Association - Ontario's recent conference, Operation Update 99, in Toronto.

And although the full impact of electronic registration (e-reg) may not be known until it is mandatory, clearly it will change the way real estate lawyers complete transactions, said Smout.

"For Middlesex County, the idea is now a reality. The system is up, running - and soon will be mandatory. When you return for Operation Update 2000, chances are other areas of the province will be working with electronic registration as well," she said.

"Electronic registration is the final and most significant phase in the development of electronic land registration services," Smout said. "Although the automation of land registry records and electronic title searching have greatly improved how title records are maintained and accessed, the ability to register electronically is the key component to the electronic delivery of land registration services."

Eventually, "electronic registration will be mandatory," she warned. Lawyers will still be able to register paper documents at the Registry Office, but "this service will be slow and subject to long delays. Lawyers will be expected to register all of their documents through e-reg. Thus, without access to the system, it will be extremely difficult — and perhaps even impractical — to practice real estate law," she predicted.

Ontario's Ministry of Consumer and Commercial Relations (MCCR) is using a phased-in approach to implement e-reg. In the fall of 1998, MCCR started a Beta Test project in Middlesex County. Designated users prepared documents using Teraview software. Paper copies were printed, signed and then registered manually at the counter. The process helped to identify potential bugs in the system.

On Jan. 25, 1999, MCCR launched the pilot project for the electronic registration of documents in the Middlesex County

Land Registry Office (located in London, Ont.).

At present, electronic registration is optional, but at the conclusion of the pilot phase, a regulation will make electronic registration mandatory in Middlesex County. Smout expects this regulation to be made very soon.

After it becomes mandatory in Middlesex, e-reg will be introduced at other registry offices. E-reg will be optional at each office for a short period, after which it will be mandatory. Next on the list is Halton, followed by either Peel or Hamilton, Smout said. Eventually, electronic registration will come to all of the province.

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The system developed by the province and Teranet Land Information Services Inc. (Teranet) is a "pure" electronic system, Smout pointed out.

"Documents are created, tendered, registered and maintained in an electronic format. This differs from systems where documents are completed in a paper form, tendered for registration, and then imaged or scanned into a database."

Smout noted some of the key features of the system:

- Documents are created, exchanged, signed and registered on-line through the Teraview software.

- There are no written signatures. Documents are "signed" electronically

- It is a paperless system. The notion of the "duplicate registered copy" is now obsolete.

- A document registered in electronic format prevails over any copy of the document that exists in written form that is not a printed copy of the electronic document.

- Payment of registration fees and Land Transfer Tax are completed by electronic funds transfer through a Teraview account.

- Security is maintained through controlled access to the registration function.

- All title documents may be registered remotely from your desktop.

Escrow closings will be affected by electronic registration, said Smout. The current practice is to meet at the Registry Office and exchange all title and non-title documents. Funds are released after registration is complete. Both parties are present during the registration process and know when it is complete and when funds are to be released.

But under electronic registration, only the title documents are exchanged online, Smout said. Thus, the parties have to make other arrangements for the exchange of non-title documents and the release of funds.

This can create practical inconveniences, Smout noted. Under the present system, all closing documents for any number of transactions are sent to location (the Registry Office). Under e-reg, documents may have to be delivered to several different locations (for example, one could have closings scheduled with five different law firms).

Smout noted that the Joint Law Society of Upper Canada/CBAO Committee on Electronic Registration has developed a form of escrow agreement called the Document Registration Agreement (DRA) (available on the law society website at [www.lsuc.on.ca](http://www.lsuc.on.ca)). Although the law society

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has not yet adopted the use of the DRA as an approved policy or practice directive,

she expects that it will eventually endorse the use of the DRA or a similar document.

As well, Smout noted that the law society has issued Draft Directives for Electronic Registration of Real Estate Title Documents (also available on the law society website). They have not been adopted as approved policies or directives. The law society has asked members using e-reg to put into practice, evaluate and make submissions on these directives so that a further report may be made to Convocation.

#### **USING E-REGISTRATION**

The newest version of the Teraview software permits users to search and register online. Users must obtain a registration account number. They are provided with a

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security package that includes a personal security diskette. Each diskette is encrypted with the user's account information.

Teraview includes a file management and accounting system. E-reg users must set up an account from which charges are deducted as they are incurred. A docket system allows users to track costs and charge them to a specific file. Costs for registrations and land transfer tax can be deducted or transferred electronically from a specified account.

All documents are prepared on-line. The user selects the appropriate form from an on-screen menu containing an exhaustive list of types of documents for registration, and then completes the document.

Since Teraview is linked to the MCCR database, most of the title information is "pre-populated" into the document. Once the user types in the Parcel Identification Number (PIN), the legal description, name of the registered owner and municipal address are retrieved from the database and inserted into the document.

This eliminates an enormous amount of typing and reduces the risk of human error, said Smout.

Because they are "pre-populated," the documents contain all the possible choices for statements that could be made for that particular type of document. Thus, where statements must be made, the user selects the statement from the list. This also

reduces the risk of human error because the user does not have to input the statement.

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*If a document is amended  
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Documents may be shared between and worked on by two parties. Users may authorize access to a particular document to another user. Either can amend the document.

Documents are "signed" online. If a document has not been completed properly, the user is prompted with an error message and must correct the document before it can be signed. If a document is amended after it is signed, the signatures are automatically removed.

The user is to complete a subsearch of title. The system will prompt the user with the last registered instrument. The user may then proceed or discontinue the transaction.

