



## Hotsheet

### Underground Fuel Oil Storage Tanks In Ontario

Ontario Regulation 213/01 (the “Regulation”) under the *Technical Standards and Safety Act, 2000*<sup>1</sup> sets out new rules for fuel oil storage tanks. The Regulation contains important provisions affecting properties containing underground oil tanks that are, or were, used for heating the building on the property with oil.

#### Definition

The Regulation defines an “underground tank” as a “buried tank or partially buried tank that is in direct contact with earth or backfill.”<sup>2</sup> This includes underground tanks that are presently in use, and old underground tanks that are no longer used to heat a building on the property. Tanks located in the basement of a building are not considered to be underground, unless part of the tank is in contact with earth or backfill.

#### Registration

The Regulation creates a registry of underground oil tanks, maintained by the Technical Standards and Safety Authority (“TSSA”). All underground oil tanks must be registered with the TSSA by May 1, 2002. Subsection 7(4) of the Regulation states: “No person shall supply fuel oil to an underground tank unless the underground tank is registered.”

#### Searching To Determine Whether An Underground Oil Tank Is Registered (“TSSA Search”)

This search is done by calling the TSSA at 416-325-5056, or toll free at 1-877-682-8772, and giving them the address of the property. They will advise you whether they have a registration for an underground oil tank on the property. This information is provided without charge. The verbal search is sufficient for TitlePLUS<sup>®3</sup> purposes.

#### TitlePLUS Underwriting

When a lawyer is retained on a purchase or mortgage of real property, the lawyer should inquire as to how the property is heated.

##### (a) For Underground Oil Tanks On Properties Heated With Oil

If the property is heated by oil, the lawyer should determine whether the oil tank is underground or above ground. For TitlePLUS purposes, if the client cannot confirm that the oil tank is above ground, the lawyer should assume that the tank is underground.

For properties heated by oil from an underground oil tank, we require a TSSA search, except for:

- (i) mortgage-only applications, unless the face principal amount of the mortgage to be insured exceeds \$1,000,000;
- (ii) purchase applications made through the TitlePLUS New Home Program.

If the TSSA search discloses that there is a registered underground oil tank on the property, it is not necessary to enter anything about this in the TitlePLUS or RealiWeb<sup>®</sup> software, unless the lawyer knows that the tank does not comply with TSSA standards. If this is the case, please call a TitlePLUS Underwriting Counsel.

If the search discloses no registration of an underground oil tank, please enter the following exception in the application:

“Lack of registration with the Technical Standards and Safety Authority of an underground fuel oil tank on the LAND. No fuel oil for the heating system on the LAND can be delivered until the tank is registered. In order to register the tank, you may be required to have work done on the tank and/or on the soil of the LAND, at your own expense.”

**(b) For Underground Oil Tanks On Properties **Not** Heated With Oil**

For properties heated by gas or electricity, the TitlePLUS program does not require a TSSA search, unless the lawyer knows that there is an underground oil tank on the property. If this is the case, please call a TitlePLUS Underwriting Counsel.

**(c) Purchases Or Mortgages Over \$1,000,000**

The underwriting requirements set out above may vary in the case of properties or mortgages exceeding \$1,000,000. For these transactions, please call a TitlePLUS Underwriting Counsel at the earliest possible date, to determine what searches will be required.

**Additional Information**

For more information about standards for underground and above ground oil tanks, and remediation of contamination caused by oil tanks, call the TSSA at the numbers shown above, visit their website at [www.tssa.org](http://www.tssa.org), or write to them at:

Technical Standards and Safety Authority  
3300 Bloor Street West, 14<sup>th</sup> Floor, Centre Tower  
Toronto, Ontario M8X 2X4

<sup>1</sup> S.O. 2000, c. 16.

<sup>2</sup> O. Reg. 213/01, Subsection 1(1).

<sup>3</sup> The TitlePLUS policy is underwritten by Lawyers' Professional Indemnity Company (LAWPRO<sup>®</sup>). Please refer to the policy for full details, including actual terms and conditions.

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