



## Hotsheet

### Windsor Public Works Search Issues

Where you are **required to conduct a Building Department work order search** when completing a TitlePLUS<sup>®1</sup> policy application, you are also **required to conduct a Public Works Search**. This is an additional search done for properties in the City of Windsor only.

For TitlePLUS deals where both searches have been done, or where the lawyer or client has specific knowledge with respect to the sewer pipe connecting the house to the public sewer, the following situations may apply:

#### 1. Eeling

Eeling is a process whereby the City attempts to clear blockages from the sewer pipe connecting the house on the property with the public sewer on the street.

- (a) If the property has been eeled once or more than once, and is **not** ineligible for eeling, absent a specific provision in the agreement of purchase and sale, nothing further need be done for TitlePLUS purposes. In other words, unless there is a term in the individual agreement that would give rise to a remedy for the simple fact of the property having been eeled, you do not need to insert any exception in the TitlePLUS policy. The TitlePLUS department takes the position that municipal eeling is not a property defect within the terms of title coverage, and that legal services coverage<sup>2</sup> is not engaged absent extraordinary rights on the part of the purchaser.
- (b) If the property is **ineligible** for eeling, this means that there is an existing problem with the sewer connection. The City is aware of the problem, and a work order may be issued at any time. For TitlePLUS applications, you must insert the following Schedule "A" exception:

"Ineligibility for eeling by the City of Windsor of the sewer pipe connecting the house on the LAND with the public sewer. This pipe may be blocked, broken or otherwise damaged. You may be required to pay the cost of removing, repairing and/or replacing it."

#### 2. Sewer Permit Record

- (a) Where the public works search response indicates that **there is a record of a sewer permit** for the property, and that the final inspection was satisfactory, nothing further need be done for TitlePLUS purposes.

- (b) Where the search response indicates that there is a record of a sewer permit, but there is no response, or a negative response, regarding the final inspection, the lawyer should contact the City for further information. The lawyer should then insert an exception in Schedule “A” describing the problem, and the possible consequences of the problem (for instance, a warning that the purchaser may be required to remove the existing sewer connection and replace it, at his/her own expense). The wording of this exception will depend on the information obtained from the City. Please feel free to contact a TitlePLUS Underwriting Counsel to obtain assistance with the wording of the exception in each case.

### 3. No Sewer Permit Record

Where the public search works response indicates that there is **no record of a sewer permit** for the property, this indicates either that the sewer pipe connecting the house to the public sewer was installed before permits were required, or that it was installed without a permit even though one was required. The lawyer should determine which of these is the case.

- (a) If the connection was installed before permits were required, nothing further is necessary for TitlePLUS purposes.
- (b) If it was installed without a permit when one was required, the following exception should be inserted in Schedule “A” in the TitlePLUS application:

“Lack of a permit for the sewer pipe connecting the house on the LAND with the public sewer. At any time, the City of Windsor may require you to pay the cost of removing, repairing and/or replacing it.”

In cases where the response to the Public Works Search indicates a problem different from any of the above, please contact a TitlePLUS Underwriting Counsel for instructions.

<sup>1</sup> The TitlePLUS policy is underwritten by Lawyers’ Professional Indemnity Company (LAWPRO®). Please refer to the policy for full details, including actual terms and conditions.

<sup>2</sup> Excluding OwnerEXPRESS® policies and Québec policies.

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