Presentation by Debbie G. N. Reid, Land Registrar

**The History of Land Recordation in Bermuda**

Between the late 1800s and 1955, the parish vestries kept a record of land transactions in Bermuda under the Parish Vestries Act. Each parish maintained a register of properties that were sold. The registered information included the name of the new owner, the location, acreage and the price of the land. Some parishes kept the deeds. The Land Title and Registration Department currently has these deeds, with the exception of those for Pembroke where we only have the information contained in the books.

Under the Registration of Freeholders Act 1867, all owners of freehold land were recorded in the General Register of Freeholders. The Archives Department currently holds this information. We have seen records that show that the Colonial Secretary Office was required to keep a book of Deeds and Wills in 1800, but we are unable at this time to establish where those documents are currently.

Under the *Registry General* (*Recording of Document Act*), *1955,* the Registrar General assumed responsibility for maintaining a repository for deeds, known as a deeds registry. It was introduced to ensure that deeds held in private hands were secure. The mortgage register was kept to protect mortgage priority and mortgagees’ interests. The voluntary conveyance register was kept to impede certain types of fraud, and the alien deed register was maintained to monitor the amount of foreign-owned land. Therefore, the deeds registry existed to protect specific interests and was not necessarily designed to promote land dealings or protect the purchaser and proprietors.

It was not until the late 1990s that the Registrar General started keeping a full copy of all deeds. Prior to that, the Registrar General held what is known as a transfer notice or memorandum of the mortgage or voluntary conveyance, which is a synopsis of the deed with the plan.

In 2006, the Government decided to finally create a Land Title Registration Department, which became fully operational in 2018. Today, this department is the custodian of the parish vestry and deeds registry records. Some land transactions that do not trigger land title registration are still being recorded under the deeds registry system. The reasons the Government introduced the Land Title and Registration Department are as follows:

1. **Security** – Unregistered land is at a higher risk of fraud. Fraudsters can assume your identity and attempt to sell or mortgage your property without your knowledge. Registration helps you protect your property from fraud and resist any third-party applications for adverse possession, commonly referred to as “squatter’s rights.”
2. **Evidence of ownership** – Registration makes it easier to buy and sell property as the Land Registry contains all the title information necessary for conveyancing and is available to the public online. The Land Registry collates all the relevant information from the historical deeds and provides only the relevant information on the three registers, which forms part of the registered title.
3. **Clarity** – Registration makes it easier for conveyancers to ascertain who owns the property and what benefits and burdens are attached to the land. If the land is unregistered, the conveyancer has to review the original deeds, which can be lengthy, hand-written documents that can be difficult to read and interpret. Reviewing the deeds can increase the time required to complete a transaction because the conveyancer will need to wait for the deeds, check that the chain of ownership is correct, and then draft the contract.
4. **Certainty** – Registration also provides a state-backed guarantee securing the title to the property, meaning that the state guarantees that the legal estate is vested in the registered owner.

Since introducing the land title registration system, all deed information and deeds are kept in an electronic register. Once a property is registered, the paper deed becomes superfluous.

Attached in Appendix 1 is a list of recording of documents legislation In Bermuda from 1867 to the present day.

**Equity’s Darling: the Bona Fide Purchaser For Value in Real Estate. What recourse is there for an owner in possession of the original deeds to property in circumstances where the property has been sold to a bona fide purchaser (in cases where fraud is or is not alleged)?**

**Registered Land**

Fraud and forgery are the most troublesome aspects of guarantee and indemnity. The success of the registration of the title depends partly on the integrity of the register. A bona fide purchaser must have faith in the completeness and accuracy of the contents of the register. If a purchaser acquires title from a person who, it is later discovered, had acquired the title by fraudulent means, then it would be inequitable to deny the purchaser, who acted in good faith, his enjoyment of the property. Therefore, the owner who was fraudulently denied occupation of the property should be compensated for his loss unless the fraud was

* Wholly or partly a result of the owner’s actions, or
* Wholly a result of the owner’s lack of proper due care.

The bona fide purchaser in occupation remains in possession of the property. The registry may then take steps to recover the compensation paid by way of a court action against the fraudulent party.