

January, 2013
BUILDING DIVISION

RESTRICTIVE COVENANT PROCESS FOR BUILDING PERMIT APPLICATIONS

This bulletin provides information on how the Commercial Section of the Building Division processes a Restrictive Covenant that is required by the City in relation to a Building Permit application. All Restrictive Covenants shall be registered prior to the final approval and occupancy of a building. If more than one Restrictive Covenant is required, they may be combined.

General Procedure

1. The owner's lawyer or notary public shall draft the Letter of Undertaking and any required Restrictive Covenant using the precedents provided by the City. **The clauses in the draft Restrictive Covenant must be exactly the same as those in the precedent.** Any changes or deletions must be approved by the City's Legal Services Division, prior to execution by any of the parties.
2. The City requires priority over any financial charges that may be registered against the title to the subject lands. If there is a mortgage registered against the title to the lands, the lawyer or notary public must reference the financial institution on the Form C as a "Transferor", complete the Memorandum as to Encumbrances, Liens, and Interests (last page of the document), and have the Restrictive Covenant executed by the financial institution.
3. Once the Restrictive Covenant and Letter of Undertaking have been drafted, pursuant to the conditions set out above, the lawyer or notary public shall submit a copy to the Commercial Plan Reviewer, along with a copy of a current title search. The Commercial Plan Reviewer will forward the documents to the City's Legal Services Division for review.
4. Subsequent to Legal Services Division review, the Commercial Plan Reviewer will forward the draft documents along with comments (if any) to the lawyer or notary public. The lawyer or notary public shall address the comments (if any) and proceed with execution of the Restrictive Covenant, in triplicate.

5. Following execution, the lawyer or notary public shall submit the Restrictive Covenant in triplicate, together with the signed Letter of Undertaking, to the Commercial Plan Reviewer for execution by the authorized signatories for the City. The City will be the last party to execute.
6. After execution by the City, the Restrictive Covenant must be picked up and the lawyer or notary public must attend to the registration of the Restrictive Covenant at the Land Title Office. A copy of the registered Restrictive Covenant must be submitted to the City with registration particulars endorsed thereon.