COMMERCIAL REAL ESTATE INSIGHT & NEWS

The Bowditch & Dewey Real Estate Blog

Massachusetts Governor Healey Signs Legislation to Permit As of Right Withdrawal of Registered Land

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On August 6, 2024, Governor Healey signed amending legislation that will allow owners of registered land in Massachusetts to voluntarily withdraw the registered land from the jurisdiction of the Land Court under a long hoped-for amendment to M.G.L. c. 185. The effective date of the legislation is February 2025.

Under the amended law, landowners will be able to file a Complaint for Withdrawal of Land from the Land Registration System naming all of the owners of land and identifying any mortgagees, lessees or option holders of record having an interest in the registered land, together with a notice of voluntary withdrawal.

The new legislation will allow landowners to file a Complaint for withdrawal as of right, together with the assents from some or all of the parties who hold an interest in the real estate. Those parties who hold an interest in the real estate who do not assent prior to the Complaint filing are entitled to notice. If no objection to the Complaint is filed within 30 days of service, the Land Court shall order withdrawal of the land from the land registration system.

Right now, withdrawal of land from the land registration system is permitted only if one of five statutory criteria are satisfied. Notice to parties holding interests in the registered land may be sent only after a Complaint for Withdrawal of Land from the Land Registration System was filed with the Land Court.

The effect of the Land Court order allowing withdrawal is akin to a Confirmation of Title M.G.L. c. 185, § 56A. Except for those matters shown on the memorandum of encumbrances to the Land Court Certificate of Title and those matters listed in M.G.L. c. 185, § 46, title to the land is free of all liens and encumbrances, including adverse possession and prescriptive rights as soon as the judicially-endorsed notice of voluntary withdrawal is noted on the memorandum of encumbrances on the Land Court Certificate of Title.

For more information, please see the Real Estate Bar of Massachusetts' report on amending legislation.

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