

# LAKE WORTH DRAINAGE DISTRICT OPERATING POLICIES

## Chapter 5: Right-of-Way Ownership & Interests

### 5.1 Chancery Case 407

Chapter 6458, Laws of Florida (1913) authorized the creation of water control districts by Chancery Court proceedings.

In the Chancery Court proceeding (hereafter referred to as Chancery Case 407) the Lake Worth Drainage District (LWDD) was created on June 15, 1915, pursuant to the Decree Creating and Incorporating the LWDD.

In accordance with Chapter 6458, commissioners appointed by LWDD identified and appraised real property to be acquired by LWDD to be used for right-of-way, holding basins, and other drainage works of LWDD. The commissioners also assessed the benefits and damages accruing to all lands within LWDD under the planned reclamation.

The Palm Beach County Court of Chancery, in Chancery Case 407, approved the report prepared by the commissioners and subsequent amended reports on July 17, 1917. As a result and in accordance with Chapter 6458, any assessment owed to a property owner for property acquired in fee simple by LWDD was credited toward the assessment owed by the property owner to LWDD and fee simple title to the acquired property was vested in the name of LWDD.

In an effort to make Chancery Case 407 a more accessible document to the public, LWDD recorded Chancery Case 407 on June 22, 1990, which can be found in Official Record Book 6495, Page 761. The recording of this document in the public records on June 22, 1990 does not change the fact that title to the acquired property was vested in the name of LWDD on June 17, 1917. Chapter 6458, Laws of Florida, required the Chancery Court proceedings to be filed with the Clerk of the Court and not in the public records.

The Board may authorize the sale of LWDD's interests in real estate to the adjacent land owner (refer to Section 5.5 – Sale of LWDD's Interests in Real Estate).

#### **5.1.1 Quit Claim of Ownership Interests of Property Acquired from Chancery Case 407 within Platted Subdivisions**

The Board may authorize to quit claim ownership interests acquired from Chancery Case 407 within subdivisions that have been platted and recorded in the public records for 30 years or more, provided the platted subdivision was not part of the original Chancery Case 407 proceeding. Each petitioner's case will be reviewed by LWDD staff and LWDD's general counsel on a case-by-case basis. Staff will then make a recommendation to the Board to either quit claim LWDD's interest for a processing fee or require fair-market value. The LWDD staff may also recommend to the Board that LWDD should require an exclusive easement from the property owner(s) so that adequate area is available for canal maintenance purposes.

Once the Board has made a determination to either quit claim all or a portion of LWDD's right-of-way ownership interest to an adjacent property owner for a

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processing fee, or to sell all or a portion of LWDD's right-of-way ownership interest to an adjacent property owner for fair-market value, and the subject area is within a platted subdivision meeting the 30-year requirements shown in the previous paragraph, LWDD staff will send written notifications to all other adjacent property owners within the same subdivision offering each adjacent property owner the same opportunity to acquire the equivalent width of right-of-way from LWDD as was acquired by the adjacent property owner with the recent Board action. These written notifications are to stipulate that this offer will become null and void six (6) months after the date of the recent Board action.

**NOTE: For additional information regarding requirements prior and subsequent to appearing before the Board, refer to Section 5.5 – Sale of LWDD's Interests in Real Estate.**

**SAMPLE CERTIFICATION OF TITLE**

**THE CERTIFICATION OF TITLE MUST BE PROVIDED ON THE TITLE COMPANY'S LETTERHEAD OR THE ATTORNEY'S LETTERHEAD**

Lake Worth Drainage District (LWDD) requires a Certification of Title in conjunction with conveyances to and from LWDD, agreements, releases, and annexation within the boundaries of LWDD. A Certification of Title must be addressed to:

LAKE WORTH DRAINAGE DISTRICT  
Attn: Legal Department  
13081 Military Trail  
Delray Beach, FL 33484-1105

I hereby certify that I have examined the Public Records of Palm Beach County, Florida regarding the following described property:

**Provide Full Legal Description and  
Property Control Number**

and as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, find the last owner of record to be \_\_\_\_\_

\_\_\_\_\_ whose  
mailing

address is \_\_\_\_\_.

**Please identify any encumbrances, mortgages and any petroleum, phosphate, minerals and/or metals affecting the property.**

**(Name of Law Firm or Name of Title Company)**

By: \_\_\_\_\_

\_\_\_\_\_  
Attorney's Name if prepared by Law Firm

Name of President/Vice-President if prepared by Title Company

## SAMPLE CERTIFICATION OF TITLE

### Additional Requirements

If you are required to **convey right-of-way** to Lake Worth Drainage District, you must provide the following information:

**Existing Easements:** If there are existing easements or agreements that affect the parcel to be conveyed to LWDD, please identify them on the sketch of description required by LWDD for the proposed conveyance document. **If there are no existing easements or agreements, please confirm that in the certification of title.**

**Mortgage Holder:** If the parcel to be conveyed to LWDD is encumbered, it will be necessary to provide a Consent and Subordination of Mortgage. A sample form is provided herewith. Please provide the mortgage information in the certification.

If you are requesting a **release of reservations** from LWDD, you must provide the following information:

**Existing Easements:** If there are existing easements and or agreements that affect the parcel to be released by LWDD, **please provide a boundary survey with all easements and/or agreements plotted thereon. In addition, please provide copies of the corresponding documents.**

**SAMPLE FORM – THIS MUST BE PREPARED ON LENDER STATIONERY**

**CONSENT AND SUBORDINATION OF MORTGAGE**

\_\_\_\_\_, whose address is \_\_\_\_\_  
\_\_\_\_\_, pursuant to that Mortgage dated \_\_\_\_  
\_\_\_\_\_ and recorded in Official Record Book \_\_\_\_\_, Page \_\_\_\_\_, of the  
Public Records of Palm Beach County, Florida, (the "Mortgage"), which Mortgage  
encumbers the property described on Exhibit "A" attached hereto, consents to the Easement  
Deed dated \_\_\_\_\_ from \_\_\_\_\_  
\_\_\_\_\_, to LAKE WORTH DRAINAGE DISTRICT, to which this Consent and  
Subordination is attached (the "Easement), and subordinates the lien of the Mortgage to  
the Easement.

IN WITNESS WHEREOF, the Mortgagee has executed this Consent and Subordination as  
of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Name of Mortgagee

By: \_\_\_\_\_  
President

\_\_\_\_\_  
Address

STATE OF \_\_\_\_\_ :  
COUNTY OF \_\_\_\_\_ :

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ as President of \_\_\_\_\_  
\_\_\_\_\_. He/She (\_\_\_\_) is personally known  
to me or (\_\_\_\_) produced \_\_\_\_\_ as  
identification.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary Stamp or Seal