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Who Was This Torrens Guy? And What Does He Have to Do With My Property?

Legal Update

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Minnesota landowners may have heard the term “torrens” when dealing with title to their property, but most are unsure of the term’s meaning or its origin. Torrens is a system of registering title to real property. Unlike the more common “abstract” system, which involves review of land title documents and creation of an abstract of title describing those documents, title to property in torrens systems is evidenced by one document, a certificate of title. Accordingly, review of title to torrens property is typically easier, faster and cheaper.

Torrens systems draw their name from an Australian politician, Sir Robert Richard Torrens. Sir Torrens was the main proponent of the Real Property Act of 1858, which established a system of registration of land title in the Province of South Australia. Having worked as a customs official, Sir Torrens was familiar with the system for buying and selling ships. Sir Torrens based his proposal not only on that experience but also on the ideas of a German-born lawyer, Ulrich Hübbe, who had emigrated to South Australia.

Sir Torrens proposed to replace an abstract system of title registration, which relied on complicated documents that had to be maintained for decades, and generally required lawyers to effect even routine transactions. Given the number of lawyers who served as South Australian legislators, it is not surprising that Sir Torrens faced opposition in adopting his namesake system. After adoption of the Act, however, torrens systems spread throughout Australia and later to many countries around the globe.

The torrens system has a long history in Minnesota. In 1901, the Minnesota legislature allowed counties with populations of over 75,000 (at that time Hennepin, Ramsey and St. Louis Counties) to adopt torrens systems. In 1909, the legislature allowed all of Minnesota’s counties to adopt torrens systems. Unlike other jurisdictions, Minnesota law does not subject all real property to the torrens system.

Minnesota Statutes Chapter 508 provides that landowners may subject their properties to the torrens system by registering title through a district court proceeding. Minn. Stat. § 508.10. At the conclusion of the registration proceeding, a

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certificate of title to the property is issued to the owner. With limited exceptions, the holder of a certificate of title to Minnesota real property owns that property free of any claims or interests not listed on the certificate. Minn. Stat. § 508.25. This is consistent with one of the guiding principles of torrens systems – that title may be reviewed by simply examining the certificate of title. Accordingly, claims to title based on documents or facts not listed on the certificate, such as adverse possession, are generally not effective against torrens land. See Minn. Stat. § 508.02.

Today, torrens and abstract systems co-exist across Minnesota. Although the abstract system remains more common across the state, torrens title is frequently found in the counties in which the torrens system was first adopted, Hennepin, Ramsey and St. Louis.