

Consolidated **Civil Enforcement Bulletin: How long does a Sale of Land action take?**



As I have noted over the last couple of months, Sale of Land is becoming a favored option for creditor's looking to enforce their writs in Alberta. Therefore I am very pleased to provide you with the answer to our 3rd Sale of Land question:

This month's question is: **How long does a Sale of Land action take?**

While it is true the process of conducting a Civil Enforcement Sale of Land action is definitely a more time consuming action than seizure and sale of personal property – the actual number of files that make it all the way to the end of the process (selling of the actual home) is quite limited. As I noted last month – the majority of all Sale of Land files (70-80%) settle well before the file makes it to the listing/selling stage.

That being said – this month's bulletin is about how long the process takes – not how many files settle (even though this is a very impressive statistic). The first step in a Sale of Land file is, in most cases, the longest step. The "Notice of Intention to Sell Land" step. The Notice of Intention to Sell Land is prepared by the agency and must be personally served on the debtor and all other registered owners. This is the step where the debtor first becomes aware of our intention to sell their home/land.

Part 7 of the Civil Enforcement Act of Alberta states that "*once the regulations governing the giving of notice of intention to sell have been complied with, an agency shall not, unless otherwise permitted by the Court, offer the land for sale until a waiting period of 180 days has expired from the day that all the requirements of those regulations have been complied with*". So the first step of a Sale of Land action cannot be completed until 180 days from the personal service of the debtor and any other registered owners expires.

In some cases the court will allow the agency to shorten this 180-day waiting period, but only if the court is satisfied that the land is not exempt.

At first glance this waiting period seems like an excessive amount of time to get the property sold, but this 180-day waiting period is very useful for the staff of Consolidated. This allows the staff time to explain the situation to the debtor and to work with the debtor to allow them to:

- a) understand that we have the authority and the ability to sell their home
- b) work with the debtor to arrange settlement or to arrange financing for the home to settle the instructing parties' debt
- c) to work with the debtor's to allow them to understand that if they cooperate with the sale, we can obtain more money for the property thereby possibly providing for monies to be available to them at the end of the action (monies in excess of the debt and costs are returned to the debtor)

Once approximately 130 days of the 180-day waiting period has expired the agency will start of step 2 of the process - serving the debtor and other registered owners with a "Notice of Method of Sale". This notice must be served 30 days prior to listing the house/land for sale. This Notice sets out the asking price for the land and the minimum price that will be accepted to sell the land.

If a debtor has been unwilling to discuss this matter with our offices, the service of the Notice of Method of Sale will often prompt them to change their mind and to contact our offices for assistance and/or to make settlement arrangements.

Should the debtor continue to put his/her head in the sand and not be willing to work with one of our staff to make satisfactory settlement arrangements, the house/land is listed with a Realtor as soon as the 180-day waiting period has expired (including the 30 days for the Notice of Method of Sale). Step 3 - The house/land is placed on MLS and the Realtor begins actively marketing/showing the same.

The agency will accept, review and if necessary, counter offers on behalf of the client. Once an offer has been accepted the agency will work with the realtor and land titles to finalize the sale, receive and distribute the funds, and transfer ownership of the land to the new purchaser.

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There is not set minimum time for this step. The land is listed on MLS and as with any other real estate listed by a realtor in Alberta – the sale can take a matter of days or a matter of months, dependent on the location of the land and the desirability of the land.

At any point during this process the debtor contact our offices or our client's office to discuss or make settlement arrangements. Consolidated will only cease a Sale of Land action upon instructions from our client or upon receipt of the full warrant amount and all related costs.

Once a Sale of Land action is commenced it can be put on hold at any point during the steps noted above. This is common when a debtor agrees to settlement arrangements/monthly or period payments. The creditor can place the action on hold and commence it again at any point should the debtor fail to follow through on the settlement arrangements. The steps DO NOT have to start the process over; we simply pick up right where the file was when it was placed on hold.

To recap, Sale of Land is definitely one of the most time intensive options to collect your writ under the Civil Enforcement Act of Alberta, but this time requirement is far outweighed by the success of this action, whether you are selling a full or partial interest.

This brings me to our fourth and file sale of land question, which I will be happy to answer for you in next month's bulletin:

Our fourth and final Sale of Land question will be:

How do you sell a property when our debtor only owns a partial interest in the property?

As always, if you have any questions with respect the time commitment involved in a sale of land file, or any other civil enforcement question, please do not hesitate to contact me directly at 403-668-8804 or at patriciaaw@ccebailiff.ca

Have a great day,

Patricia Wilson

Director, Civil Enforcement