

## Compliance under Land Owner Transparency Act for pre-existing real estate owners: November 30, 2021, Filing Deadline

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### **Background:**

The government of British Columbia has enacted the *Land Owner Transparency Act* (“**LOTA**”). This statute introduces mandatory disclosure regarding beneficial ownership of land in British Columbia and the creation of a publicly searchable registry. LOTA requires reporting bodies that hold an interest in land in British Columbia as of November 30, 2020, to file a transparency report to disclose beneficial ownership by no later than **November 30, 2021**.

The Land Title and Survey Authority of British Columbia (LTSA) is responsible for developing and operating the Land Owner Transparency Registry, as set out in LOTA. More information on the Land Owner Transparency Registry (LOTR) can be found at: [Land Owner Transparency Registry \(LOTR\) \(landtransparency.ca\)](https://landtransparency.ca)

### **How does this impact Housing Providers?**

Societies and co-ops<sup>1</sup> are reporting bodies, and those who hold an applicable interest in land are required to file a transparency report no later than **November 30, 2021**.

Applicable interests in land include an estate in fee simple, a life estate and a right to occupy land under a lease with a term of more than 10 years. In most cases, this means if your organization owns any land or holds a lease with more than 10 years, you will be required to file a transparency report. If, on November 30, **2020** (not November 30, 2021), the remaining term of the lease was 10 years or less, the society or co-op is not required to file a transparency report. Before making this determination, though, it is best to consult with a legal professional.

### **What is a transparency report?**

A transparency report is filed by a legal professional. It will include information about the organization (reporting body) itself as well as information for each individual interest holder identified in connection with the reporting body.

If your society or co-op owns/leases multiple properties, one report can cover multiple properties.

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<sup>1</sup> : LOTA describes three types of reporting bodies: (1) relevant corporations; (2) relevant trusts; and (3) relevant partnerships. Societies and co-ops fall within the definition of ‘relevant corporation’, and are therefore required to file a report if they hold an applicable interest in land.

## How do we file and complete the transparency report on behalf of our society or co-op?

You will require the assistance of a legal professional (lawyer or notary public) to file the transparency report. Society or co-op staff, members or directors **cannot** complete the reports directly. The legal professional will have the required myLTSA Enterprise account and a digital certification signature (known as a Juricert).

If your organization does not already have legal counsel who assists them on real estate matters, your first step is to find a legal professional who can assist you. A legal professional who is already familiar with the requirements of the LOTA is ideal.

Your legal professional will review your organization's structure (i.e. constating documents) and land interests to determine, among other things:

- the organizational information to be included
- whether any individual interest holders will need to be identified and included in the disclosure (unlikely, but possible), and
- which property interests need to be included in the report.

## How much will this cost?

To file a transparency report, costs will include the myLTSA filing fees of approximately \$40.00 plus tax, in addition to the fees charged by your legal professional. The legal professional will need to spend some time to gather the required information and prepare the transparency report. Cost will depend on the legal fees charged by your legal professional and the time required for them to gather the necessary information. Expect several hundred dollars minimum for a simple filing, increasing for more complex scenarios.

BC Housing and AHMA will consider reasonable costs within operating budgets/expenses for subsidized projects. Please contact your BC Housing portfolio manager or Alexandra Christian, Housing Operations Manager for AHMA, if you have any questions.

## Frequently Asked Questions:

1. **Question:** My society is a registered charity. Do we still need to file a transparency report?  
**Answer:** Yes. The requirements under LOTA do not relate to the charitable status of an entity, but rather, whether that entity holds an interest in land.
2. **Question:** My society or co-op does not own any land, but it is the tenant under a lease of land. Do we still need to file a transparency report?  
**Answer:** In most cases, yes. LOTA applies to interests in land that include a right to occupy land under a lease with a term of more than 10 years. If on November 30, 2020 (not November 30, 2021), the remaining term of the lease was 10 years or less, the society or co-op is not required to file a transparency report. **Before making this determination though, it is best to consult with a legal professional.**

3. **Question:** My society or co-op owns or leases more than one property. Can we file one transparency report that covers all of the properties, or is it necessary to file one transparency report per property?  
**Answer:** A transparency report can cover more than one property.
4. **Question:** How do I figure out who the interest holders are for my society or co-op?  
**Answer:** A determination of the corporate interest holders for a society or co-op will require a review of the society or co-op's structure in conjunction with a review of LOTA. This review should be done by a legal professional.
5. **Question:** Can I sign up for a myLTSA Enterprise account and obtain a digital certification signature in order to file the transparency report on behalf of my society or co-op?  
**Answer:** No. The specific digital certification signature required for LOTA filings are only issued to lawyers and notary publics.
6. **Question:** How long does it take to file the transparency report?  
**Answer:** The actual filing process is done through electronic registration and is similar to the process that occurs when any land title document is filed. The time to complete the registration process is not long. However, the time that your legal professional needs to complete the transparency report could vary depending on how complicated the structure of your society or co-op is and how much information the legal professional needs to confirm. It is best to contact your legal professional and get the process started well in advance of the November 30, 2021 deadline.
7. **Question:** Can a third party prepare and file the transparency report on behalf of my society or co-op? For example, can a mortgagee with a registered mortgage on title to the property do it? Could BC Housing do this on our behalf?  
**Answer:** No, because the transparency report requires an original signature by an individual with actual knowledge of the matters set forth in the transparency report. By signing the transparency report, the individual is certifying the information is correct and complete to the extent required by LOTA. The individual who signs the transparency report should therefore be an appropriate representative of the society or the co-op.
8. **Question:** What if a society or co-op decides not to file a transparency report as required under LOTA?  
**Answer:** Failure by pre-existing owners to file transparency reports may result in penalties up to the greater of (a) \$25,000 for individuals or \$50,000 for non-individuals; and (b) 15% of the assessed value of the property.
9. **Question:** What information do identified individual interest holders need to provide?  
**Answer:** Identified interest holders must provide the following information: date of birth; location of principal residence and last known address; social insurance number or individual tax number; whether or not the individual is a Canadian citizen or permanent resident of Canada, or country of citizenship; the date on which the individual became or ceased to be an interest holder, a description of the nature of the individual's interest; and a statement as to any incapacity (if applicable).

Primary identification information of identified interest holders that may be accessible by the public consists of the following:

- (a) the individual's full name;
- (b) whether or not the individual is a Canadian citizen or permanent resident of Canada;
- (c) if the individual is not a Canadian citizen or permanent resident of Canada, every country or state of which the individual is a citizen;
- (d) if the individual's principal residence is in Canada, the city and province in which that principal residence is located;
- (e) if the individual's principal residence is outside Canada, the city and country in which that principal residence is located; and
- (f) prescribed information, if any.

In certain circumstances, an individual may apply to have some or all of the foregoing omitted from or obscured in publicly accessible information. Supporting information must be provided by the applicant where a request to omit or obscure information is made.

**For Further Information:**

Additional information regarding the Landowner Transparency Act can be obtained by

1. Visiting [Land Owner Transparency Registry \(LOTR\) \(landtransparency.ca\)](http://landtransparency.ca)
2. Emailing the Land Title and Survey Authority at [customerservice@ltsa.ca](mailto:customerservice@ltsa.ca)
3. Contact your legal professional