



# LWBC Assignments for Foreshore Tenures

**L**and and Water British Columbia Inc. (LWBC) is a Crown corporation that operates under the authority of the *Land Act*, the *University Endowment Land Act*, the *Ministry of Lands, Parks and Housing Act*, the *Water Act*, the *Water Utilities Act*, the *Public Service Act*, and the Province's *First Nations Consultation Guidelines*.

LWBC reports to the Minister of Sustainable Resource Management. LWBC's mandate covers the development, management, and disposition of Crown land and water for the benefit of all British Columbians. LWBC has four main service centres located in Nanaimo, Surrey, Kamloops, and Prince George and field offices in Smithers, Fort St. John, Cranbrook, and Williams Lake.

LWBC has a variety of foreshore tenure program areas such as aquaculture, (shellfish and finfish), public and private utilities, commercial wharves and marinas, resorts, commercial recreation, log handling, and residential (private moorages). Crown foreshore is, in basic terms, all land covered by either saltwater

or freshwater. Almost all foreshore in British Columbia is owned by the province and can be tenured by way of Licence of Occupation, Lease, or Right of Way (tenures).

Once a tenure is issued, the tenure holder is responsible for ensuring that the rents are paid, the facilities are maintained in good order, the area is used for the purpose outlined in the agreement, the required insurance and security bonds remain in place, and payment of all property taxes associated with the property are current. Additionally, the tenure holder must not subtenure, assign, mortgage, or transfer the tenure or permit any person to use or occupy the land without LWBC's prior written consent.

Please note that a Licence of Occupation does not convey an exclusive interest in the land and cannot be used as collateral to obtain mortgages.

LWBC requires that an assignment take place when:

- the upland property of a licence of occupation is sold;
- a new tenure holder is to be added to the agreement;
- there is a death of a tenant in common;
- there is a divorce or one or more tenure holders is to be removed from the tenure;
- there is a court-ordered sale.

Only an active tenure in good standing can be assigned.

Tenure holders should always be aware that if they sell their improvements but do not receive LWBC's written consent to an assignment, they remain responsible for all the terms and conditions of the tenure agreement, including rental, insurance, performance security, and taxes; the tenure is also subject to cancellation. The purchaser of the improvements does not have any rights to use the Crown land or the improvements on the Crown land.

In general terms the assignment procedure is the same for all program areas. Some programs, however, have specific requirements that need to be met before an assignment can be completed.

The first step is to obtain an assignment package by submitting a written request to the LWBC Service Centre or Field Office that manages the tenure. The request must reference:

1. the tenure to be assigned;
2. some specific information regarding the assignee; and
3. any special circumstances that need to be taken into account to prepare the documentation.

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For example:

- Has one of the assignors died?
- Is one of the assignors or assignees being represented by a Power of Attorney?
- Is the assignment court-ordered due to bankruptcy?

Included in the request must be the full proper names of the assignees, their full address and phone number for future billing purposes, and where to send the assignment package. If the assignees are individuals, do they wish to hold the tenure as joint tenants or tenants in common? (If neither type of tenancy is requested, tenancy in common will be assumed.)

If the assignee is a company, it must be registered with the BC Corporate Registry as a limited or incorporated entity. All assignees must meet the basic eligibility requirements to hold Crown land under the *Land Act*.

An assignment request should also include any information regarding time sensitivity—e.g., the assignor will be leaving the country and won't be available to sign documentation after a certain date—and

including any specific pick-up instructions. Assignments are dealt with in the order received; procedures may vary slightly among the LWBC's regional offices.

Once the written request is received, it will be reviewed; an Assignment/Assumption Agreement and Information Sheet will be prepared to explain the fees and specify any other documentation that must be received before the assignment can be completed.

The assignment package usually consists of the following.

- Two original Assignment/Assumption Agreements that both must be fully signed and dated by both the assignor and assignee, then returned to the LWBC office. Because these documents will not be signed on behalf of the province until all the requested supporting documentation has been reviewed for completeness and accuracy, both originals must be returned to the regional office for final execution.
- A Province of BC Certificate of Insurance and instructions on how to complete it, to be completed by the assignee's insurer (a copy of the

insurance policy is not required. This certificate provides for the Queen in right of the Province of BC to be named as an additional insured, as well as binding the insurer to notify LWBC within 30 days of any material changes to the policy).

- A copy of a Safe Keeping Agreement and a list of Acceptable Performance Securities, if applicable
- A Statutory Declaration regarding the price paid (in the case of shellfish tenures)

The additional documentation required usually includes the following.

- The original tenure (most recent tenure in good standing), because this document must be surrendered by the assignor and properly endorsed to be transferred to the assignee. If the original licence is lost or destroyed, a statutory declaration must be completed to that effect and submitted with a fee of \$50 (no GST is applicable to this fee). A Certified True Original will be created for the assignee.

- Proof that all taxes have been paid. This information can be obtained from the local government agent's office, the British Columbia Assessment Authority, or the municipality.
- Proof of insurance, in the form of a BC Certificate of Insurance that verifies that a minimum of \$1,000,000 liability insurance is in place
- An original or Certified True Copy of the State of Title Certificate
- Written consent of the upland owner if the assignee is not the upland owner, (as in the case of a company that must nominate an individual to hold the licence)
- The assignment fee (single tenure assignments are \$267.50; this fee includes \$17.50 GST)
- Additionally, in special circumstances, an original or Certified True Copy of: the Death Certificate; the Last Will and Testament or Letters Probate. Power of Attorney documents or foreclosure and court-ordered sale documents might also be required.

When all requested documentation and fees are received, they are reviewed for completeness and accuracy; an Endorsement Schedule is then created. The Endorsement Schedule and Assignment Agreement are signed by LWBC's authorized signatory.

Because the Endorsement Schedule and Assignment Agreement now form part of the tenure agreement, they are affixed to the tenure agreement. Finally, LWBC's electronic records are updated and the assigned document is delivered to the assignee; notice of the assignment is forwarded to all pertinent agencies: the BC Assessment Authority, the local regional district, the Islands Trust, the lawyer or Notary, and the assignor.

For additional information, please refer to the LWBC Internet Website:

[www.lwbc.bc.ca](http://www.lwbc.bc.ca). ▲

**Bonita Wallace** has served as a Portfolio Administrator at the Vancouver Island Service Centre of LWBC for six years. Her career journey has included public and private arenas; she has worked for a securities corporation; the Department of National Defence, Fisheries and Oceans Canada; and the Ministry of Transportation.

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