



**THE TRIAL COURT OF MASSACHUSETTS
LAND COURT**

Three Pemberton Square
Boston, MA 02108
TEL: (617) 788-7470

Christina T. Geaney
Chief Title Examiner

Title Examination Department
Landcourt.Title@jud.state.ma.us

MEMORANDUM of the CHIEF TITLE EXAMINER

To: All Registered Land Registry Districts
From: Christina T. Geaney, Chief Title Examiner
Date: June 3, 2026

Re: Land Court Guideline 14. Death: The Effect of Death upon Registered Land Titles

I. Preliminary Statement

The Land Court, through its Guidelines Committee,¹ is in the process of revising and updating the Guidelines on Registered Land.² The Guidelines Committee's goal is to publish updated and plain language guidelines that will assist court users, attorneys, and Registry District staff. As part of its work, Guideline 14. Death: The Effect of Death upon Registered Land Titles, is being updated and revised in full.³

This memorandum is being issued to provide an update to Guideline 14 prior to the publication of all updated and revised Guidelines. Effective June 3, 2026, this memorandum supersedes the previous memorandum dated October 31, 2019, and should be consulted when dealing with the death of any registered landowner(s).

II. Death: The Effect of Death upon Registered Land Titles

The purpose of this memorandum is to assist court users and attorneys with four common methods of dealing with title to registered land upon the death of a registered owner. This memorandum addresses the most common "after death" situations and is not exhaustive.

¹ The Guidelines Committee is assisted in its work by an Attorney advisory committee that is composed of experienced real estate attorneys nominated by various bar associations, and a Registry advisory committee that is composed of professionals from various Registry Districts.

² The Guidelines on Registered Land were first published in 2000 and were last revised in 2009.

³ In the past, Guideline 14 has been supplemented with memoranda from the Chief Title Examiner to reflect the changes resulting from the enactment of the Massachusetts Uniform Probate Code, G.L. c. 190B, et seq., effective March 31, 2012 ("MUPC"), and subsequent amendments.

METHOD 1 - DEATH OF ONE TENANT BY THE ENTIRETY OR DEATH OF ANY NUMBER OF JOINT TENANTS BUT THE LAST

METHOD 2 - COMPLAINT FOR CERTIFICATE AFTER DEATH

METHOD 3 - SALE UNDER DECREE (LICENSE) OF PROBATE COURT

METHOD 4 - DEED UNDER POWER OF SALE IN WILL

METHOD 1—DEATH OF ONE TENANT BY THE ENTIRETY OR DEATH OF ANY NUMBER OF JOINT TENANTS BUT THE LAST

Because title to land passes in these situations by operation of law to the surviving co-tenant(s) by right of survivorship, it is unnecessary for the surviving owner(s) to obtain a new certificate of title to deal with the property. It is necessary, however, that evidence of the death be noted on the encumbrance sheet of the outstanding Certificate of Title or Memoranda of Unit Ownership (hereinafter "Certificate") by registering the following in accordance with Registry District requirements:

1. A certified copy of a Certificate of Death of the deceased owner.
2. If the deceased owner was a tenant by the entirety, an Affidavit of No Divorce. Example affidavits are included in this memorandum.

Once these documents are registered, the surviving owner(s) may deal with the property freely without Land Court approval. This Method will not result, however, in the issuance of a new Certificate naming the surviving owner(s). To obtain such a Certificate, the surviving owner(s) must use Method # 2.

METHOD 2—COMPLAINT FOR CERTIFICATE AFTER DEATH

This method is used to obtain a new Certificate after the death of (a) a person in whose name alone a Certificate stands, (b) both tenants by the entirety, (c) any tenant in common, or (d) the death of the last joint tenant. Owners who are eligible to use Method # 1 also may use this method to obtain a new Certificate solely in the name of a surviving joint tenant or tenants.

Persons seeking to obtain a new Certificate (the "Plaintiffs") must file the following with the Land Court:

1. A Complaint for Certificate After Death, along with the Subsequent to Registration Complaint Cover Sheet and the statutory filing fee.

Note that the Complaint has two signature sections. The statement in the section entitled "Waiver of Notice by Personal Representative" must be signed by the Personal Representative of the Estate. If no Personal Representative has been appointed, one heir (for an intestate estate) or one devisee (for a testate estate) must sign the Waiver of Notice section. All

Plaintiffs must sign the Complaint in the section entitled “Listing of All Plaintiffs.” A lawyer may sign that section *only* on behalf of those Plaintiffs whom the lawyer represents.

Also note that the Complaint contains a section entitled “Addendum.” Please use the Addendum to provide any details (or to refer to documents appended to the Addendum) that would assist the Land Court in considering and granting the relief the Complaint seeks. Addendums are particularly useful in cases involving multiple deaths, disclaimers of interest, or devises to a trust.

2. An attested copy of the current Certificate.
3. Supporting documents, depending upon how the current Certificate describes the property’s owners.
 - A. *Tenancy by the Entirety/Joint Tenancy—all Co-Tenants Deceased*
 - i. *As to first to die*, file a redacted Certificate of Death (see SJC Rule 1:24). If there are more than two joint tenants, a Certificate of Death must be filed for each deceased registered owner except the last to die. In addition, if the property was held as tenants by the entirety, an Affidavit of No Divorce must be filed. Example affidavits are included in this memorandum.
 - ii. *As to the surviving tenant by the entirety or last joint tenant to die*, file attested copies of the following Probate and Family Court documents.
 - a. Docket Sheet
 - b. Petition for Formal Adjudication (MPC 160) or Allowed Petition (pre-MUPC)
 - c. Citation (and a copy of the publication)
 - d. Approved Bond(s)
 - e. Will (if testate) and all Codicils (if any)
 - f. Inventory (if filed)
 - g. Surviving Spouse, Children, Heirs at Law Form (MPC 162) (if filed)
 - h. Devisees Form (MPC 163) (if testate and filed)
 - i. Decree and Order on Petition for Formal Adjudication (MPC 755) (unless the Probate and Family Court Decree is part of a Pre-MUPC filing)–SEE NOTE
 - iii. **Note:** If Plaintiffs have not received a Decree and Order on Petition for Formal Adjudication (MPC 755) or a similarly final Probate and Family Court decree contained in a pre-MUPC

order, Plaintiffs may substitute for such items EITHER

- a. A Petition for Late and Limited Formal Testacy and/or Appointment (MPC 161) and Decree and Order on Petition for Late and Limited Formal Testacy and/or Appointment (MPC 757)

OR

- b. A Petition for Order of Complete Settlement (MPC 855), the First and Final Account (include all Accounts if more than one), and Decree and Order for Complete Settlement (MPC 790)

Lawyers may *not* attest any of the foregoing Probate and Family Court documents. If any of the foregoing documents was amended, Plaintiffs must file attested copies of those amendments.

- B. *Tenancy in Common*—for each tenant in common who has died, file all the material described in “Attested Probate and Family Court documents” list above (as applicable). If there are surviving tenants in common, each must be a Plaintiff or provide a separate assent. The assent must state that the tenant is aware that the current Certificate is to be cancelled, and a new one issued in the tenant’s name and those of the new tenant(s) in common.
 - C. *Certificate in the Name of One Person*—file all the material described in “Attested Probate and Family Court documents” list above (as applicable).
- 4. *Unless there is a specific devise of the registered real property*, if the will directs the payment of legacies, evidence of payment should be provided.
 - 5. *If the registered real property is devised to the trustees of a testamentary trust*, attested copies of (1) a Probate and Family Court decree appointing the trustee or Statement of Confirmation of Testamentary Trustee and (2) the Trustee’s Bond(s) must be provided.⁴
 - 6. *If the registered real property is devised to the trustees of an inter vivos trust that is not of record*, the original trust document and any amendment(s) thereto, along with any documents evidencing a change in trustee(s), must be filed. Plaintiffs may file copies of these documents if Plaintiffs represent in the Complaint’s Addendum that such documents are true, accurate, and complete copies. If the original trust and any amendments thereto are not going to be registered with the Order of Court once granted, Plaintiff(s) will

⁴ If the Court allows the Complaint, the subsequent Order of Court will direct that the new Certificate name the testamentary trustee(s) for the benefit of the named beneficiaries of the testamentary trust, under the will of the decedent.

also be required to file an executed certificate pursuant to G.L. c. 184, § 35. Plaintiff(s) may consult with the Court on the form and content of said certificate if in doubt.⁵

Note that the Court will *not* place title into an expired trust. See Guideline 62.

If the Court allows the Complaint, the Court will issue an Order of Court. The Order of the Land Court must be registered promptly at the appropriate Registry District. The Registry District will prepare a new Certificate in accordance with the Order. If less than one year has elapsed from the date of death of any former owner, or if there are unresolved claims against the estate of a former owner, any new Certificate will issue subject to the settlement of that person's estate. A further Subsequent Complaint to Amend Certificate of Title will need to be filed to remove from the new Certificate its "settlement of the estate" language.

METHOD 3—SALE UNDER DECREE (LICENSE) OF PROBATE COURT

This method results in a DEED APPROVAL. ***The Decree (License), issued in a formal or informal proceeding, may not be more than one year old.*** To obtain such an approval, please present:

1. An Approval Request Cover Sheet (see Guideline 55).
2. The original or an attested copy of the Decree/License of the Probate Court containing an acceptable property description, such as:
 - A. For land: Land or Lot(s); Land Court plan reference; reference to certificate of title in the Registry District where the Land Court plan is filed; current deed document number; current Certificate; property address. (You may, but need not, include a bounding description if the Certificate lists one.)
 - B. For condominium unit: unit number; current unit deed document number; current memorandum of unit ownership; property address (see Guideline 18, Section A).
3. *If the decedent's interest was less than the full fee simple interest* (if the decedent owned less than 100%), list the undivided fractional interest to be conveyed (e.g., "1/3 undivided interest") and the consideration equal to that fractional interest.
4. An attested copy of the Probate and Family Court docket.
5. An attested copy of the Decree and Order on Petition for Formal Adjudication (MPC 755) or Order of Informal Probate of Will and/or Appointment of

⁵ If the Court allows the Complaint, the subsequent Order of Court will direct that the new Certificate name the trustee(s) and direct that either the original trust document(s) (or the certificate filed in lieu of such documents) be registered and noted on the new Certificate.

Personal Representative (MPC 750).

6. An attested copy of the current Certificate. If the Certificate has not been prepared, provide an attested copy of the deed(s) into the current owner(s), and an attested copy of the most recent prior Certificate.
7. *If the current Certificate (or substitute material, see #6 above) states that title is held by tenants by the entirety, or as joint tenants, provide a Certificate of Death (and in the case of tenants by the entirety, an Affidavit of No Divorce).*
8. A fully executed deed. The deed must be signed and acknowledged by the Personal Representative in their representative capacity.

Example Grantor Clause:

*"I, [name of personal representative], as Personal Representative of the Estate of [name of decedent] holder of a Decree of the Probate and Family Court of [name of county] County dated, [date], Docket No. [docket number of Probate case], by power conferred by said Decree.
.."*

If the deed references the date of the Decree/License, that date must be identical to the date the Decree/License issued. The deed must conform in all respects to the requirements of the Decree/License, with the consideration equal to or more than the amount specified in the Decree/License. *The deed must be executed on or after the date of the Decree/License.* The deed's description of the conveyed property must conform to the description in the Decree/License. If the Personal Representative is the grantee in the deed, the Decree/License must indicate that the Personal Representative is permitted to take title.

If everything is in order, either the presented deed will be endorsed "Approved for Registration" and signed by a Land Court title examiner, or the Court will issue an approval form signed by a Land Court title examiner in accordance with its standard procedures for electronic approvals. Any changes to the approved deed require a new approval.

METHOD 4—DEED UNDER POWER OF SALE IN WILL

This method may be used to convey registered land when (a) the will, probated formally or informally, contains an unequivocal Power of Sale authorizing the Personal Representative to sell the real estate or an interest in that real estate; (b) the Personal Representative has a Letter of Authority that is not more than 60 days old; (c) the consideration recited in the presented deed is more than nominal; and (d) the grantee is an arm's length third party. Method 4 may *not* be used to distribute registered land to devisees or heirs-at-law, which requires Method 2, nor may it be used to effectuate an agreement among devisees concerning which of them will take title.

This method results in a DEED APPROVAL. To obtain such an approval, please present:

1. An Approval Request Cover Sheet (see Guideline 55).
2. An attested copy of the probated will and all codicils. The party requesting approval should mark the clause(s) containing the Power of Sale.
3. Attested copies of the Probate and Family Court Docket Sheet, Petition for Formal Adjudication (MPC 160) or Petition for Informal Probate of Will and/or Appointment of Personal Representative (MPC 150), Approved Bond, Surviving Spouse, Children, Heirs at Law Form (MPC 162), Devisees Form (MPC 163), and Decree and Order on Petition For Formal Adjudication (MPC 755) or Order of Informal Probate of Will and/or Appointment of Personal Representative (MPC 750).
4. Current Letters of Authority of the Personal Representative.
5. An attested copy of the current Certificate. If the Certificate has not been prepared, provide an attested copy of the deed(s) into the current owner(s), and an attested copy of the most recent prior Certificate.
6. *If the current Certificate (or substitute material, see #5 above) states that title is held by tenants by the entirety, or as joint tenants, provide a Certificate of Death (and in the case of tenants by the entirety, an Affidavit of No Divorce).*
7. A fully executed deed of the Personal Representative. The deed's grantor clause must state that the Personal Representative is selling the registered land pursuant to a power conferred by the will of the deceased owner. The deed must be signed and acknowledged by the Personal Representative in their representative capacity:

Example Grantor Clause:

"I, [name of personal representative], as Personal Representative of the Estate of [name of decedent], pursuant to the power of sale conferred under the probated will, Probate and Family Court of [name of county] County, Docket No. [docket number of Probate case]. . ."

If everything is in order, either the presented deed will be endorsed "Approved for Registration" and signed by a Land Court title examiner, or the Court will issue an approval form signed by a Land Court title examiner in accordance with its standard procedures for electronic approvals. Any changes to the approved deed require a new approval.

EXAMPLE AFFIDAVITS OF NO DIVORCE

1. I, [name of surviving registered owner], being the surviving registered owner of the premises described in Land Court Certificate of Title No./Memorandum of Unit Ownership No. [certificate of title number or memorandum of unit ownership number], having personal knowledge of the facts stated herein, under oath, depose and say as follows:

I was married to [name of decedent], who died on [date of death]. At the time of [name of decedent]'s death, there had been no divorce.

OR

2. I, [name of affiant], having personal knowledge of the facts stated herein, under oath, depose and say as follows:

[Names of tenants by the entirety] held title to property on Certificate of Title No./Memorandum of Unit Ownership No. [certificate of title number or memorandum of unit ownership number].

[Name of first tenant to die] died on [date of death] and at the time of [name of decedent]'s death, there had been no divorce.

OR

3. If the affiant does not have personal knowledge as to the facts stated therein and is unable to acquire personal knowledge from another individual, an attorney may execute an Affidavit of No Divorce which refers to the marital status recited in the certificate of death of the decedent together with a statement that the attorney searched the probate and divorce records of the county in which the decedent was domiciled at their death. If the property is situated in a county other than that of the decedent's domicile at the time of death, then that county's probate and divorce records are to be searched as well. The affidavit will recite no record of divorce was found. When reference to the certificate of death is relied upon, the named surviving spouse should be the same as the surviving tenant by the entirety. Example:

- A. I, [name of attorney], Attorney for [name of client], being the surviving owner of the premises described in Land Court Certificate of Title No./Memorandum of Unit Ownership No. [certificate of title number or memorandum of unit ownership number], depose and say as follows:

[Names of tenants by the entirety] held title to property on Certificate of Title No./Memorandum of Unit Ownership No. [certificate of title number or memorandum of unit ownership number].

[Name of first tenant to die] died on [date of death] and I searched the probate/divorce records of the county in which the decedent was domiciled at their death and the probate/divorce records of the county where the premises is situated and found no record of divorce.

The named surviving spouse in the Certificate of Death for [name of first tenant to die] is the same as the surviving tenant by entirety.

AND for 1, 2, and 3:

Executed under the penalties of perjury on [date].

[Signature of Affiant]

[Name of Affiant and BBO Number if signed by Attorney]

COMMONWEALTH OF MASSACHUSETTS (or applicable jurisdiction)

[name of county] County, ss.

"On this [day of month] day of [month], [year] before me, the undersigned notary public, [name of document signer] personally appeared, proved to me through satisfactory evidence of identification, which was [evidence of identification], to be the person who signed the preceding or attached document in my presence and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of their knowledge and belief.

[Signature and seal of Notary Public]