

## British Columbia beneficial ownership registry launching November 30, 2020

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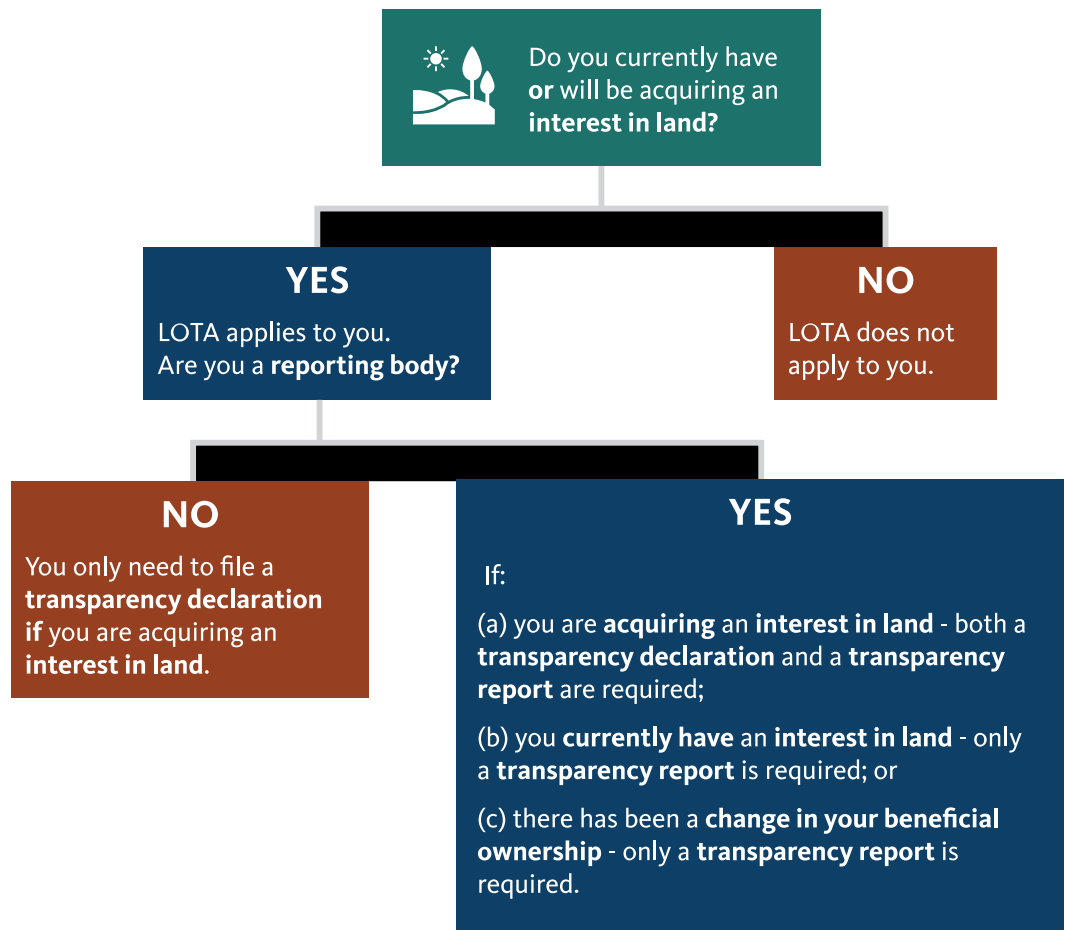
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On September 20, 2020, the *Land Owner Transparency Act*, commonly known in the real estate industry as LOTA, was brought into force by the Province through an [Order in Council](#), fulfilling the government's mandate to end hidden ownership in real estate in British Columbia.

According to the Land Owner Transparency Regulation (the "Regulation"), all reporting bodies must file a transparency report with the Land Owner Transparency Registry (the "Registry") by November 30, 2021.

Individuals and entities can determine if they are required to make filings with the Registry by using the graphic we have produced below.

### Does LOTA apply to you?



## What is an interest in land?

An interest in land includes lands owned in fee simple, lands leased for 10 or more years and other prescribed interests.

## How to determine if you are a reporting body

Reporting bodies include:

- **Relevant corporation:** All corporations unless they qualify under one of the exemptions provided in LOTA, which include government bodies, municipal corporations, public companies, strata corporations, saving institutions, insurance companies, trust companies, pension companies or wholly-owned subsidiaries of any exempted corporation.
- **Relevant partnership:** All partnerships.
- **Relevant trust:** Most trusts, including bare trusts; however, LOTA specifically exempts testamentary and alter-ego trusts, pension plan trusts and mutual fund trusts. The exemptions provided in LOTA do not apply to real estate investment trusts (REITs).

## What is a transparency declaration?

A transparency declaration provides information on whether an entity is a relevant corporation, relevant trust or relevant partnership.

## What is a transparency report?

Transparency reports contain substantive information that will be available to various public agencies, such as the British Columbia Securities Commission, the BC Financial Services Authority and the Law Society, as well as provincial and federal taxing authorities. Beginning on April 30, 2021, certain information contained in a transparency report will also be subject to a public search function. The following information will be required to complete and file a transparency report:

- In respect of:
  - a relevant corporation, the corporation's head office address, business number, jurisdiction of formation and the below personal information for each interest holder;
  - a relevant partnership, the partnership's principal business premises, type of partnership business number, jurisdiction of formation and the below personal information for each interest holder; and
  - a relevant trust, the registered trust instrument number, if applicable, and the below personal information for each interest holder and settlor.
- The following personal information for each individual interest holder and settlor:
  - the individual's full name;
  - country of citizenship or confirmation of Canadian residency;
  - principal residence address;
  - date of birth;
  - social insurance number or individual tax number;
  - a description of their relationship with the relevant corporation, relevant partnership or relevant trust; and
  - if applicable, the date on which the individual became or ceased to be an interest holder.

## Who is an interest holder?

**Corporate interest holders:** An individual is considered a corporate interest holder if either of the following apply:

- the individual is the registered or beneficial owner, or has indirect control of, 10% or more

of the equity shares or voting rights of the relevant corporation; or

- the individual has a right or indirect control to elect, appoint or remove the majority of the directors of the relevant corporation.

**Partnership interest holders:** An individual is considered a partnership interest holder if either of the following apply:

- the individual is a partner in the relevant partnership; or
- the individual is a corporate interest holder in a corporation that is a partner in the relevant partnership.

**Beneficial owners and trusts:** An individual is considered a beneficial owner of land registered in the name of a trust if any of the following apply:

- the individual has a beneficial interest in the land that is not contingent on the death of another individual;
- the individual has the power to revoke the relevant trust and receive the land; or
- the individual is a corporate interest holder in respect of a relevant corporation, and the foregoing items apply to the relevant corporation.

## Reasonable steps to obtain information and duty of interest holders

A reporting body must take reasonable steps to obtain the information required by a transparency report, and interest holders must provide this information to a reporting body. Interest holders must also be provided with a notice stating their right to request that some or all of their information be obscured from public view.

## Next steps

The launch of the Registry on November 30 will provide further clarity on the format and method of filing of transparency reports. The author of this article or any lawyer in our [Real Estate Group](#) can be contacted for further information on LOTA, the Registry or to assist with any required filings.