

Land Register in Sweden – Present and Future

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ABSTRACT

In Sweden land registration has been carried out in different kinds of books for a long time. The latest reform of computerising the Land register was implemented in the 1970:s and completed in 1995. The computerised system we work with today was developed during the nineteen-sixties and -seventies. The system is based on a mainframe computer.

Today all registration takes place in the Land register. The general purpose of the Land register is to give publicity and legal protection for purchases, mortgages and other legal actions and to establish certainty of ownership and rights to land. The Land register authority, organised within the district courts, works with a form-based handling where every matter requires a certain form or combinations of forms. The information is stored in different databases. The number of Land register authorities has during 2001 been reduced from 89 to 7.

The Land Code was altered July 1, 2000. The Land Code now regulates the system of computerised registration. The same date a new law called the Law Property Register was implemented that regulates the full Property Register (the Land Data Bank system) and the selling of information from the register.

Lantmäteriet maintains and develops the system that contains the register, collects taxes and distributes all the documents that emanate from the system. Lantmäteriet also has the task of providing all sections of society with information from the Land Register but has no responsibility for the registration matter itself.

The Land register consists of title, site leasehold grant, site leasehold right, encumbrances such as mortgages and rights of use, official notifications and history. The stamp duty for purchases and exchange is 1,5 % for natural persons and 3 % for juridical persons. The stamp duty is 2 % of the amount of money applied for in the mortgage. The charge for an application to register a title is 825 SEK. For mortgage it is 375 SEK. The fees shall cover costs for registration at the Land register authority and for the costs at Lantmäteriet for keeping the computerised system.

On July 1, 1994 a law about the Mortgage Certificate Register came into force. The mortgage certificate system is both a register of computerised mortgage certificates and a processing system for those customers affiliated, mostly banks and credit institutes, to the Mortgage Certificate System. 7 million of Sweden's 9 million mortgages are computerised.

During 2002 and the years to come we are planning to start several projects concerning the Land Register. The projects are going to result in a new user interface, a new technical platform, a new way of register the information, a new way of storing and in the end a new way of making the information available in the society. These projects will result in the possibility to apply for land registration by an electronic application. The Land register authority handles the matter without any papers and makes the decision in the computer with an electronic signature and files all documents electronically as well. The decided matters are to be filed directly in the electronic archive. The information can be registered where it is created. The mortgages are already electronic and they will fit into this system. In 2004 we will have an alteration in the rules concerning mortgage. It will in the future be possible to mortgage in any kind of currency. A lot of other legislation must also be altered to make it possible to make the wanted changes in the system. First of all we must have the possibility to sign documents with an electronic signature. Electronic application requires an altered legislation as well as first point of capture. The electronic archive demands a new legislation.

In the long run we hope to be able to build a system for electronic conveyancing. That however will not be possible until we have legislation that accepts electronic signatures. Electronic signatures may be real in a near future but a new way of real property conveyancing also needs public acceptance. The benefits of such a system will be improved security. That means that it will be harder to falsify deeds of transfer when you always can check from whom the documents are sent. The system can result in a faster process. The computerised system can collect information from the electronic document and instead of registration in a manual way the Land register authority can grant for example a title after just checking the information in the matter. Lower costs for the applicants will be possible to achieve when they can send in documents directly to the authority from their system.

Hopefully we will have an alteration in the present law during 2003 that makes it possible for every titleholder or holder of a leasehold grant to be mortgage certificate holder. That means that even more certificates can be electronic. The next step will be to change the law in the direction towards a system that consists only of electronic certificates.

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1. PRESENT SITUATION

In Sweden the land registration has been done in different kinds of books since the eighteenth century. The reform of computerising the Land register was implemented in the 1970:s and completed in 1995. Today all registration takes place in the register.

The general purpose of the Land register is to give publicity and legal protection for purchases, mortgages and other legal actions and to establish certainty of ownership and rights to land. A well functioning land registration system is a prerequisite to guarantee security and facilitate economic transactions. In Sweden the contents of the Land register is guaranteed by the state. The Land register authorities are responsible for the contents of the register.

Lantmäteriet distributes the information put into the system by the Land register authority in different ways. Duplicates have been made to satisfy the demands set up by Lantmäteriet and our clients who buy the service to get the information presented in different ways. We can now present information on the Internet, through different kinds of segments ordered by the client, on-paper lists and so on. The welcome site on the Internet presentation looks like this.



The register information is in Swedish. A short information in English is available. To get to the information on the Internet you have to sign a contract and pay for every search. The registration charge is 1 500 SEK. The monthly charge is 100 SEK per invoiced address. The

charge includes a maximum of two identities. The price for every search in the register is 20 SEK.

The number of Land register authorities has been reduced from 89 to 7 during 2001. The change was completed in June 2001. The authorities are located around the country following the judicial district of the courts of appeal with one exception, the district surrounding the middle of Sweden where two authorities are placed.

The Land register authority is an authority that organisationally is a part of the district court. The court registrar is the head of the Land Register authority. The court registrar is a judge at the district court or a law clerk (deputy judge) with a special appointment. The clerk is of course a lawyer. As a result of computerisation the personnel at the authorities without a legal degree but with a very long experience in registration are allowed to decide in registration matters. The more complicated matters are to be decided by the judge or the clerk. The Land Register authority in the district where the real property that's concerned is situated deals with a registration matter. Registration day is every weekday and it ends at 12.00 o'clock. Registration matters that are sent in after 12.00 o'clock are dealt with the day after. The day of registration is the day of decision even if the authority in reality makes the decision another, later, day. This is important considering the legal status of the register meaning that registration day 1 has preference to registration day 2. That is the reason for checking all applications in one day.

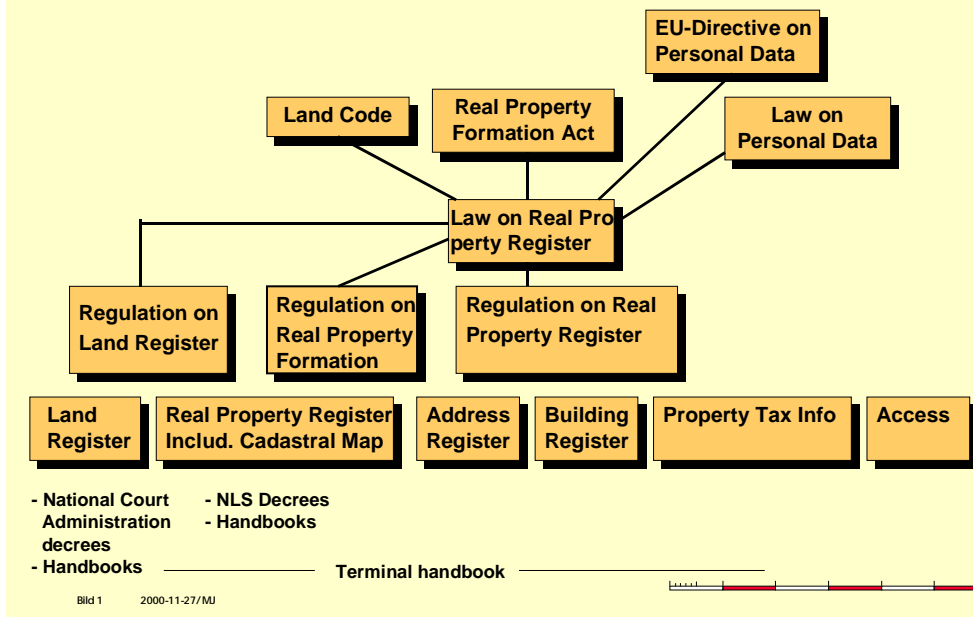
The personnel at the authority make all the necessary controls. Sweden does not have notaries as in many other countries. Lantmäteriet is responsible for keeping the computerised system. It is not Lantmäteriet that is responsible for handling the matters. Lantmäteriet maintains and develops the system, collects taxes and distributes all the documents that are emanating from the system such as the document for registration of title, mortgage certificate and so on. Lantmäteriet educates the personnel at the Land register authority to handle the system in order to conduct the registration transactions. Lantmäteriet has no responsibility for the registration matter itself.

1.1 Legislation

The Land Code was altered on the July 1, 2000. The same date a new law called the Property Register Act was implemented. This law regulates the register and the selling of information from the register. This change and the new law was caused by the full implementation of the reform of computerising the land and property register and because of Directive 95/46/EC from October 24, 1995, which aims to prevent the violation of personal integrity in the processing of personal data. The Land Code now regulates the system of computerised registration.

The connections between the different laws can be explained like this.

LAND DATA BANK LEGISLATION



The Real property register (the Land Data Bank system) consists of five parts. Real property-land- address- building and property tax. This is regulated in the Law of Real Property Register. This law also regulates how the information in the register can be distributed to clients. The Land Code regulates, among other things, the content of the Land Register. The Real Property Formation Act regulates, among other things, the content of the first part of the Real property register i.e. a description of the real property. The regulations consists of more detailed information on how the register shall be conducted.

2. THE REGISTER

The Land register consists of the legal records of

- Title
- Site leasehold grant,
- Site leasehold right,
- Encumbrances such as mortgages and rights of use,
- Official notifications and
- History.

2.1 What is Registered and Controlled

When somebody wants to apply for registration he has to do so in writing and at the same time present all the documents he wants to refer to.

2.1.1. Title

The title is the registration of the purchased ownership to a real property. The title certificate is a special document to prove that the title has been granted. It has no real value. You have to apply for the title within 3 months from the acquisition. If title is not applied for in time the Land Register authority can order the new owner to pay a fine if he doesn't apply. The authority has no other way to make somebody apply for a title but you cannot mortgage without a title so in practice this is not a big problem. The purchase is valid even if you don't register.

There is a demand to make a written application if you want to register a title. The original acquisition document has to be presented to the authority together with one verified copy. The sellers and the buyers names, civic registration numbers and signatures have to be on the document together with, if the seller is married, the spouses signature. There is a special rule for this consent from the spouse.

The sellers and his spouse's signatures have to be attested by two witnesses. If the buyer only obtains a part of the real property, the extent of the part must be clear. The amount of money paid for the real property must be clear if the property is sold/bought.

In the Land Register it is shown what the assessed value of the property is. When there is a new real property due to for example land parcelling there is a time when no assessed value exists. In these cases a valuation certificate must be presented to the Land Register authority. If the purchase-sum is lower than the assessed value the stamp duty is based on the assessed value. In other cases it is the purchase-sum that the stamp duty is based on.

The authority registers:

- The applicants civic registration number and his name. The authority does not register the address. The address is automatically taken from a different register. However when you look at the screen you will see the address. The address is thereafter a part of the register.
- The share of the real property. According to Swedish law you can own a not specified share of the property. It's very common that married couples buy half each of the real property. You can never own a specified physical part of the area of the property. If you purchase a specified part of the area you have to apply for subdivision.
- The type of acquisition and the date stated on the document of purchase, you buy the property (letter of purchase), you can also get the property by inheritance, bequest or gift.
- The purchase sum.

2.1.2. Site Leasehold Grant

Land owned by the local authority or by the state can be granted with site leasehold. The local authority or the state is still the owner of the land but they are letting a long-term lease for, for example, housing. The rules are in many ways the same as for registered title.

The following information is entered into the register when it comes to site leasehold grant:

- The date of the site leasehold grant. The contract has to be in writing and the date of that contract is registered.
- The purpose of the site leasehold grant, for example residential.
- The amount of money that shall be paid yearly for the leasehold

2.1.3. Site Leasehold Right

When it comes to site leasehold rights the same rules as for title is valid. You can buy and sell the leasehold right in the same way as a property. The controls are the same as for real property.

2.1.4. Mortgage

Mortgage is made for security towards banks when they give you a loan to buy your house. The Land Register authority's certificate of the mortgage is called a mortgage certificate. This certificate has nothing to do with the actual loans you have taken, for example, with a bank with the property as security. When you have paid back your loan you get the certificate back and you can use it again as security for a new loan. Most of the certificates are computerised (see under 4.). The document you sign at the bank, the recognisance of debt, is not registered in the Land Register. The mortgages are registered in order of priority. The creditors that holds the first mortgage certificate has priority.

In the Land Register the mortgage is registered in figures. The mortgage sum is noted in Swedish crowns. The mortgage applied for must enclose the total of the real property or site leasehold. You cannot mortgage a part of the property. The spouse's consent is necessary. The total amount of the mortgages is always registered.

2.1.5. Rights of Use

Rights of use, leases and easements can be registered if there is a contract in writing. The original contract must be presented to the authority together with a written application. The spouse's consent is necessary.

The easements that are registered by the Land Register authority are easements by agreement. Easements can also be established as part of a real property formation procedure. In a contract the dominant and the servient tenement and the purpose of the easement must be mentioned. Encumbrances shall be registered in priority order. If the encumbrances are to be at the same priority that will be specially remarked

2.1.6. Notifications

Registration matters are not only registered titles, mortgages and so on. It is also notifications due to different statutes. There are several notifications that the Land Register authority has to make.

When an expropriation procedure is initiated the Land Register authority is notified. When expropriation is completed the authority is notified and changes in the register because of that.

Distrain is a possibility for the mortgagee to force the real property owner to pay his debt.

There are a lot of other notifications due to law.

3. STAMP DUTY AND FEES

The stamp duty for purchases and exchange is 1,5 % for natural persons and 3 % for juridical persons. The stamp duty is 2 % of the amount of money applied for in a mortgage. The charge for applications for register a title is 825 SEK. For a mortgage it is 375 SEK. The fees shall cover costs for registration at the Land Register authority and for the costs at Lantmäteriet for keeping the computerised system.

4. ELECTRONIC MORTGAGE CERTIFICATE SYSTEM

On July 1, 1994 an act about the Mortgage Certificate Register and the Mortgage Certificate Register Ordinance came into force, radically changing the handling of mortgage certificates. Through the Act the term Computerised mortgage certificate was introduced.

The Mortgage Certificate System is both a register of computerised mortgage certificates and a processing system for those customers affiliated, mostly banks and credit institutes, to the system. Affiliated customers can, online, in a simple way exchange computerised mortgage certificates. The term mortgage certificate holder was also introduced as a description of the person who has control over the registration i.e. the credit grantor. Lantmäteriet is responsible for registration in pursuance of the Personal Data Protection Act.

There are about 9 million mortgage certificates. Most of them, more than 7 million, are now computerised mortgage certificates.

The aim is to facilitate credit granting and administration as well as increasing safety and reduce costs. For the credit grantors who are affiliated to the system the handling of mortgage certificates can in principle function without paper. In the system the credit grantors, when it comes to real property, have total control over their deposited securities.

5. FUTURE

The Land Register of today is not a modern way of handling a computerised system. There is very little flexibility in the system. The legislation is somewhat old-fashioned. The

computerised system we work with today was developed during the nineteen-sixties and -seventies. The system is based on a mainframe computer. The Land Register authority works with a form-based handling where every matter requires a certain form or combinations of forms. It is only the register that is computerised. The applications and the filing are all in paper.

5.1 The New Land Register System

Tomorrow we want to be able to do other things in an easier way. Lantmäteriet has therefore made a preliminary study. The study was completed July 1, 2000. Now we are starting several projects. The projects are going to result in a new user interface, a new technical platform, a new way to register the information, a new way of storing and in the end a new way of making the information available in the society. The new system will result in a more efficient way of handling the system with its bases.

The applicants who have access to the information will also be able to apply for land registration by an electronic application. The authority handles the matter without any papers and makes the decision in the computer with an electronic signature and files all documents electronically as well. The decided matters are filed directly in the electronic archive. The information can be registered where it is created – first point of capture. The mortgages are already electronic and they will fit into this system.

All systems at Lantmäteriet must co-operate. The information from other authorities and municipalities can be delivered and captured in the system. The supply from these co-operating systems must be possible in an easy way. The computerised maps must be able to combine with the land and property register. These are examples of the new things we want to be able to do in the future.

In January 2004 we will have an alteration in the rules concerning mortgage. It will in the future be possible to mortgage in any kind of currency. The change is due to the free flow of capital in the European Union.

A lot of other legislation must also be altered to make it possible to make the wanted changes in the system. First of all we must have the possibility to sign documents with an electronic signature. Electronic application requires an altered legislation as well as first point of capture. The electronic archive is a bit more complex. Here we probably need a whole new legislation that takes in consideration the protection of personal data.

In the long run we hope to be able to build a system for electronic conveyancing. That however will not be possible until we have legislation that accepts electronic signatures. Electronic signatures may be real in a near future but a new way of real property conveyancing also needs public acceptance. The benefits of such a system will be improved security. That means that it will be harder to falsify deeds of transfer when you always can check from whom the documents are sent. The system can result in a faster process. The computerised system can collect information from the electronic document and instead of registration in a manual way the Land Register authority can grant, for example, a title after

just checking the information in the matter. Lower costs for the applicants will be possible to achieve when they can send in documents directly to the authority from their system.

5.2 Electronic Mortgage Certificate System

Hopefully we will have an alteration in the present law January 1, 2003 that makes it possible for every titleholder or holder of a leasehold grant to be mortgage certificate holder. That means that even more certificates can be electronic. The next step will be to change the law in the direction towards a system that consists only of electronic certificates.

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BIOGRAPHICAL NOTES

Monica Johansson, is the head of the department at Lantmäteriet that works mainly with the Land register and the computerised Mortgage Certificate System. She is a lawyer and specialises in juridical issues concerning land and real property, protection of personal data and different administrative procedures from a legal point of view. She has also worked as a consultant for Swedesurvey, the overseas agency of Lantmäteriet.