



January 28, 2020

Dear Real Estate Representatives,

We are pleased to provide you with an update on real estate matters and ask that you forward this information to the real estate lawyers in your Association. It is extremely important that the real estate bar be informed of the issues affecting daily practice and you are our best opportunity to get this information to your colleagues.

### **FOLA Real Estate Survey**

Please take a couple of minutes to answer a short real estate survey for us at <https://www.surveymonkey.com/r/TWWSP3>

### **FOLA Lobby Day**

For the first time ever, FOLA will be hosting a lobby day at Queen's Park on February 20, 2020. Each association has been invited to send participants. We will be attending Question Period and meeting with politicians to discuss relevant legislative and practice issues. If you will be attending on behalf of your association and want to join the Real Estate Co-Chairs in our discussions of real estate issues, please let us know at [merredith@mpottawa.com](mailto:merredith@mpottawa.com) or [ehorner@hp-lawyers.com](mailto:ehorner@hp-lawyers.com).

### **Virtual Commissioning**

Further to the Law Society's Best Practices Recommendation to continue with in-person, not virtual, commissioning on October 7, 2019 (found [here](#)), the Attorney General has introduced legislation to potentially permit remote commissioning.

Bill 161, introduced on December 9, 2019, amends several Acts, including the *Commissioners for Taking Affidavits Act*. Section 9 of this Act currently reads:

Duty of commissioner, etc., in administration of oath

- 9 Every oath and declaration shall be taken by the deponent in the presence of the commissioner, notary public, justice of the peace or other officer or person administering the oath or declaration who shall satisfy himself or herself of the genuineness of the signature of the deponent or declarant and shall administer the oath or declaration in the manner required by law before signing the jurat or declaration.

Bill 161 (found [here](#)) proposes to repeal this section and replace it with the following:

Administration of oath, declaration

In person

9(1) Every oath and declaration shall be taken by the deponent or declarant in the physical presence of the commissioner, notary public, justice of the peace or other officer or person administering the oath or declaration.

Not in person

(2) Despite subsection (1), if the regulations made under this Act so provide and the conditions set out in the regulations are met, an oath or declaration may be taken by a deponent or declarant in accordance with the regulations without being in the physical presence of a commissioner, notary public, justice of the peace or other officer or person administering the oath or declaration.

Duty of commissioner, etc.

(3) A commissioner, notary public, justice of the peace or other officer or person administering an oath or declaration shall satisfy himself or herself of the genuineness of the signature of the deponent or declarant and shall administer the oath or declaration in the manner required by law before signing the jurat or declaration

Draft regulations have not been published or circulated for review, but we continue to communicate with the Attorney General's office on this issue.

### **November Plenary Report**

A copy of the Real Estate Report presented at the November 2019 Plenary can be found [here](#).

### **Teraview Survey**

The Teraview Winter Survey is focussed on electronic funds management and closes January 31. Access the survey [here](#).

We are working in a time of constant and rapid change. FOLA's hope is that we can keep you and your local solicitors up to date with respect to the issues that affect your practice. We always welcome your feedback.

*Merredith MacLennan & Eldon Horner*  
FOLA Real Estate Co-Chairs