



FEDERATION OF ONTARIO
LAW ASSOCIATIONS
FÉDÉRATION DES ASSOCIATIONS
DU BARREAU DE L'ONTARIO

August 21, 2020

Dear Real Estate Representatives, Presidents and Library Staff,

In an effort to keep real estate lawyers updated with the ever-changing situation, we have further information to be shared with the real estate lawyers in your association.

Meeting with Director of Titles

We received lots of response to the announcement that the Land Registry Offices will be closing to the public this fall. Many of you expressed concerns regarding the process to be put in place and asked us to follow up with the Director of Titles.

We are pleased to report that, very shortly after receiving our written expression of concern on behalf of the bar, the Director of Titles has agreed to meet with the FOLA Real Estate Representatives in a Zoom call. We are working to confirm the date and time. If a designated real estate representative from a particular law association is not available to attend, an alternate may attend in their place.

Please confirm your interest in attending by sending an email to merredith@mpottawa.com with the subject line "DOT Meeting" and confirming which law association you represent.

You may also send questions for the Director of Titles to either ehorner@hp-lawyers.com or merredith@mpottawa.com.

Delivering Mortgage Discharge Payments by Wire

LawPRO has posted an up-to-date list of financial institutions that are accepting mortgage discharge payments by wire, including payment instructions. See LawPRO's Avoid A Claim Blog [here](#) for further details.

Virtual Commissioning Beyond Covid

The provincial government has passed regulations under the *Commissioners for Taking Affidavits Act* to permit virtual commissioning permanently. [O.Reg 431/20](#) came into force on August 1, 2020 and sets out the conditions under which an affidavit or declaration can be completed remotely.

The regulations include the following conditions:

1. The oath or declaration is being administered by an electronic method of communication in which the person administering the oath or declaration and the deponent or declarant are able to see, hear and communicate with each other in real time throughout the entire transaction.

2. The person administering the oath or declaration confirms the identity of the deponent or declarant.
3. A modified version of the jurat or declaration is used that indicates,
 - i. that the oath or declaration was administered in accordance with this Regulation, and
 - ii. the location of the person administering the oath or declaration and of the deponent or declarant at the time of the administering.
4. In the case of a commissioner to whom section 5 of the Act applies, the information on the stamp required to be used under that section appears on or in the document being signed.
5. The person administering the oath or declaration takes reasonable precautions in the execution of the person's duties, including ensuring that the deponent or declarant understands what is being signed.

They also require every person who administers an oath or declaration remotely to keep a record of the transaction.

The regulations are brief and leave room for interpretation. The Law Society notes in its article on best practices for remote commissioning that it is "important for lawyers and paralegals to note that there is nothing in the Act or its Regulation that obliges a receiving party to accept a document that has been commissioned remotely".

The following resources are also available on this topic:

- Ministry of the Attorney [General Guide for Newly Appointed Commissioners for Taking Affidavits](#)
- Law Society of Ontario [Remote Commissioning Information Page](#)
- Law Society of Ontario [Best Practices for Remote Commissioning](#)
- Law Society of Ontario [Remote Commissioning Checklist](#)
- LawPRO Avoid A Claim article [New Rules for Virtual Signing and the Winding Down of Remote Signing of Wills and Powers of Attorney](#)

Planning Act Emergency Period Suspension Calculator

Certain time periods under the *Planning Act* were suspended by Emergency Orders relating to Covid-19. All time suspensions regarding the *Planning Act* ended on June 22, 2020. Various provisions under the *Planning Act* were differently impacted by the suspension and LawPRO has prepared a chart to assist in calculating the impact of suspensions under the *Planning Act*. See LawPRO's Avoid A Claim Blog [here](#) for further details.

Ongoing Government Consultations

The following provincial government consultations relating to real estate issues are currently ongoing:

- [Consultation on topics from the Auditor General Report on Tarion](#) – comments due by **August 24, 2020**

- [Consultation on the *Real Estate and Business Brokers Act, 2002 \(REBBA\)*](#) re: Personal Real Estate Corporations (PERCs) and Use of Advertising Terms – comments due by **September 8, 2020**
- [Consultation on the proposed amendments to *O. Reg 188/08 under the Mortgage Brokers, Lenders and Administrators Act, 2006*](#) re: the transfer of regulatory authority for syndicated mortgage investments – comments are due by **September 21, 2020**

Working Group – New Mentoring Survey Question

The Working Group on Lawyers and Real Estate has new survey question in their mentoring initiative – which can be found [here](#). The Working Group launched this initiative to mentor real estate lawyers on best practices. Because the Working Group does not have the resources to individually mentor lawyers, the concept is to create survey questions about various aspects of the work in a real estate transaction and then provide a comment in response to the survey results. It is hoped that this will generate discussion about the practice, encourage ideas to be shared and create an atmosphere to suggest best practices to better serve our clients and possibly create more efficient practice.

The latest survey question, and responses from all past survey questions, can be found on the Working Group website [here](#).

Free LSO CPD

The Law Society is having a [Red Tag Sale](#) on CPD programs from 2015-2017. Until September 7, 2020, you can view past programs for free.

We note the LSO's reminder: Reading CPD materials alone does not qualify for CPD Hours. CPD Hours may be claimed for viewing archived webcasts, replays, or other on-demand or recorded program formats.

If and when we receive further information of interest to the real estate bar, we will pass it along.

Stay up to date with FOLA's real estate information at <https://fola.ca/real-estate-law>.

Merredith MacLennan and Eldon Horner
FOLA Real Estate Co-Chairs

Please note: The information provided herein is of a general nature only and is not intended to provide legal advice.