



March 2, 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 Lobby Day**

FOLA hosted its first Lobby Day at Queen's Park on February 20, 2020. Local law associations were invited to send participants and there were approximately 60 of us taking Queen's Park by storm. After a networking breakfast, a recap of the various issues to be discussed with Ministers, MPPs and staff, and a lobbying/advocacy 101 session, we watched Question Period. FOLA then hosted a luncheon reception for all MPPs and staff where both the Attorney General, Doug Downey, and the NDP critic for the Attorney General, Gurratan Singh, addressed us.

Following lunch, participants broke off into various groups to meet with individual MPPs, Cabinet Ministers and Ministers' staff. There were 26 separate meetings in total.

Our real estate contingent participated in meetings with policy staff from the Ministry of the Attorney General and Ministry of Municipal Affairs and Housing to discuss amendments to the *Commissioners for Taking Affidavits Act* and the *Planning Act*, and about possible legislative amendments to allow positive covenants to run with land.

We have already had follow up communication with both Ministries and will continue to pursue discussions on all of these issues.

A full report and photo gallery are available on the FOLA [website](#).

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.

### **New Condo Resource Available**

The Working Group on Lawyers and Real Estate recently released some very helpful documents for a resale condominium transaction on its [website](#). The documents can be used by lawyers and clients to assist with a resale condominium purchase transaction. The documents include:

- Retainer Master Chart
- Retainer
- Client Information Form
- Status Certificate Review Report

- Repairs and Maintenance Chart
- Report to Buyers
- Buyers Condominium Guide

These documents are the culmination of several years of work by some dedicated lawyers. Big thanks go out to Ray Leclair, Tannis Waugh, Kim Little, Mitchell Besner and Merredith MacLennan for their efforts over the last two years to finalize these documents.

### **Real Estate Liaison Group**

There are a number of important issues still being discussed with the Law Society of Ontario and LawPRO at these meetings including:

- Anti-money laundering proposed rules
- Report of the Advisory Committee on Open Banking
- Update on REBBA review and Bill 145, *Trust in Real Estate Services Act, 2020*
- Electronic Funds Transfer
- Document Registration Agreement
- Definition of Lending Client/Finance Company Consultation
- Condo deposit holders – Lawyer’s Annual Report
- Remote / virtual document signing and witnessing – Amendments to the *Commissioners for Taking Oaths and Affidavits Act*
- Advertising
- Canadian Bankers’ Association – Discharge Escalation List
- Positive Covenants

Unfortunately, our meeting scheduled for Feb. 26<sup>th</sup> was postponed due to the terrible weather. We will continue these discussions as soon as a new date can be arranged.

### **A Lot from the DOT**

On January 29, 2020, the Director of Titles issued a [notice](#) reminding lawyers NOT to discharge the relevant mortgage before transferring under Power of Sale. Apparently, the Land Registry Office is seeing a number of transactions where a discharge of the mortgage pursuant to which the sale is taking place is registered immediately prior to the Transfer Power of Sale, which then prevents the Transfer from being certified.

### **FOLA Survey**

We received 34 responses to our brief survey on real estate issues. Thank you to all who responded. The survey will be open until March 6 at noon. Eldon will be following up with those who haven’t been able to complete it just to confirm that they wish to be the real estate contact in their association and to get the information verbally or by e-mail. A report on the responses will be provided in the next update.

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