



July 15, 2019

Dear Presidents and 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. Further to Eldon's message at the May Plenary, we are asking that each of you send a response to this e-mail to confirm that you are the proper Rep for your Association and that you are willing to disseminate information to the real estate bar in your area.

FOLA is fortunate to have a good working relationship with the Law Society, our Director of Titles and the senior management at LawPro. We recently met with all of the above to exchange information about many of the following topics, and we are optimistic that matters which are important to solicitors are receiving due attention at all levels.

Law Society Review of "Lending Client"

We responded to the Law Society's call for comment on proposed amendments to clarify the meaning of 'finance company' in the Rules of Professional Conduct. The specific Rules under review provide an exception to the conflict of interest rules by specifying that a lawyer may act for both a lender and borrower where the lender is a lending client.

FOLA's response can be found [here](#).

Teraview® Account Renewal

Have you renewed your Teraview® account? In 2008, the Ministry of Government Services introduced new criteria related to obtaining authorization to register documents in Teraview® and required all Teraview® Account Holders to enter into a Registration Agreement with the Ministry. These agreements must be renewed every 5 years. Many agreements were entered into in 2009 and were renewed in 2014 and are required to be renewed again in 2019.

A [notice](#) from the Director of Titles dated July 2, 2019 was posted as a reminder that Teraview® accounts must be renewed every 5 years and warning that non-disclosure of Law Society discipline history may result in a denial of the renewal application. The notice states that "by not disclosing such disciplinary histories as required in both the ELR Agreement and the Renewal Form, the Account Holder may be immediately suspended from registering any further documents in Teraview, with all consequences to his/her practice that such loss of registration rights entails."

A copy of this notice is available on the Teraview® website in the *A Lot from the DOT* section under the *News and Info* tab, and is also available [here](#).

Remote/Virtual Signing

Further to our meetings with and [submissions](#) to the Ministry of the Attorney General earlier this year and various meetings with the Law Society regarding remote/virtual signing of documents and the proposed reforms to the *Commissioners for Taking Oaths Act* and the *Notaries Act*, we recently had a follow up meeting with the Law Society who advised that they are working on practice guidelines regarding this issue which are expected to be released in the fall of 2019.

Planning Act amendments

As we previously advised, Bill 88, the proposed act to amend the *Planning Act* introduced by Doug Downey, has passed second reading and has been sent to committee. The legislature is in recess and we are hopeful that the Bill will pass third reading in the fall.

If you want to contact your local MPP during the summer to encourage support for this Bill, you can find your local MPP's contact information [here](#) and send him or her an email to tell them that you think that Bill 88, the *Planning Amendment Act, 2019* is in the best interests of Ontarians, that you support it and hope that the MPP will do the same. Copy Doug Downey, a former real estate lawyer and now Attorney General for Ontario, at Doug.Downey@pc.ola.org.

Did you catch that? The current Attorney General is a former real estate lawyer.

Mortgage Discharge Escalation List

When a lawyer provides an undertaking to discharge a mortgage, it is a personal undertaking of the lawyer¹, so lengthy delays in receiving a discharge is a matter of concern and should be pursued.

The Canadian Bankers Association publishes a contact list for mortgage discharge requests and for escalations if discharges are not received in a timely manner. This list is updated from time to time – the current version is dated January 28, 2019 and can be found [here](#).

Working Group Fee Schedule

The provincial Working Group on Lawyers and Real Estate has a voluntary fee schedule, details of which can be found [here](#).

Working Group Mentoring Initiative

The provincial Working Group on Lawyers and Real Estate has also launched an initiative to mentor real estate lawyers on best practices. Because it does not have the resources to individually mentor, 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 current and past mentoring questions can be accessed [here](#).

¹ See Law Society of Ontario, [Rules of Professional Conduct](#), 5.1-6, Commentary [0.1].

Current Government Reviews

A review of the government's Regulatory Registry reveals the following on-going reviews that may be of interest to real estate lawyers:

Proposed changes to O. Reg. 82/98 under the Development Charges Act related to Schedule 3 of Bill 108 - More Homes, More Choice Act, 2019 (source: Environmental Registry)

A proposal to make changes to O. Reg. 82/98, under the Development Charge Act, 1997 related to Schedule 3 of the More Homes, More Choice Act, 2019.

Comments Due Date: August 21, 2019

Proposed new regulation pertaining to the community benefits authority under the Planning Act (source: Environmental Registry)

A proposal to make a new regulation under the Planning Act to prescribe matters related to the community benefits authority and make a consequential amendment to an existing regulation under the Act.

Comments Due Date: August 21, 2019

Edit Policy, act or regulation notice Proposed new regulation and regulation changes under the Planning Act, including transition matters, related to Schedule 12 of Bill 108 - the More Homes, More Choices Act, 2019 (source: Environmental Registry)

We are considering making a new regulation and regulation changes, including transitional matters, under the Planning Act which are needed as a result of Schedule 12 to Bill 108 - the More Homes, More Choices Act, 2019.

Comments Due Date: August 6, 2019

Proposed Regulations under the Local Planning Appeal Tribunal Act, 2017

Proposed Regulations under the Local Planning Appeal Tribunal Act, 2017

Comments Due Date: August 5, 2019

O. Reg. 525/97 (Exemption from Approval (Official Plan Amendments))

The Minister of Municipal Affairs and Housing (MMAH) is proposing to amend Ontario Regulation 525/97 (Exemption from Approval (Official Plan Amendments)) under the Planning Act in order to exempt certain municipalities from the requirement to obtain the Minister's approval of official plan amendments.

Comments Due Date: July 21, 2019

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 welcome your feedback and look forward to your response to this update.

Merredith MacLennan & Eldon Horner
FOLA Real Estate Co-Chairs