



Federation of Ontario
Law Associations
Fédération des associations
de barreau de l'Ontario

November 8, 2023

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.

In Memorium ... Jeffrey Lem, Director of Titles

Practising real estate lawyers throughout Ontario are still mourning the unexpected passing of Jeffrey Lem, who died on September 3, 2023 at the young age of 61. We will update our membership on the planned celebration of life in his honour as details emerge. Similarly, once we are aware of the government's plans for a successor Director of Titles, we will notify our membership accordingly.

Verification of Client Identification Virtually

Effective **January 1, 2024**, the Law Society's temporary emergency measure allowing licensees to virtually verify client identity without authentication will end. On and after that date, licensees must authenticate an individual's government-issued ID, meaning the licensee must use a process or method to determine if the ID is true and genuine and cannot do so virtually. Bylaw 7.1 allows two methods of verification virtually: the credit file method and the dual process method. Licensees can also use an agent to verify identity. The Notice to the Profession dated July 27, 2023 and additional resources from the LSO can be found [here](#).

These enhanced rules will impact real estate lawyers specifically as our engagement is routinely to facilitate the transfer of funds for our clients. Be on the lookout for CPD programming in connection with this to better prepare yourself, your practice and your staff.

MyTeraview.ca

As part of efforts to improve Teraview Account Management, Teranet recently announced that certain services are moving online to **MyTeraview.ca** starting **December 1, 2023**. Although this notice was sent to Teraview Account Holder Representatives a few weeks ago, a newsletter is posted on the Teraview website [here](#). Members may email info@teraview.ca with any questions.

Teraview News...Annual Fee Increase

Please continue to frequently check Teraview for updates and newsletters as new functionality at Teraview is implemented. Effective **November 6, 2023**, the Teranet Connect Search Service fee for searches using third party conveyancing applications (searches performed outside of Teraview) will be increased to \$1.17+HST per transaction.

Reminder – DRA has been updated

The Document Registration Agreement and Multi-Party Document Registration Agreement have been updated and published on the Law Society of Ontario's website. The updated DRA and Multi-Party DRA are available in word [here](#). We encourage you to review and implement the

updated DRA and Multi-Party DRA on your files and in your correspondence when you refer to same to be incorporated by reference.

Vacant Unit Taxes

Municipalities of Toronto, Ottawa and Hamilton have either enacted or will enact by 2024 a regime for vacant unit taxes within their municipal boundaries. They require homeowners to annually declare if they own a vacant unit, failing which they are presumed to have a vacant unit and taxed at a rate of 1% (or higher) of the unit's value (typically assessed value). This could have an impact on sales of these units where a vendor has not previously declared or paid the tax. Details should be reflected on tax certificates but there may be a delay in implementation. If you have transactions in any of these municipalities, you should investigate prior to requisitions falling due.

Underused Housing Tax (Canada)

The Federal Government passed the underused housing tax in June, effective January 1, 2022, such that reporting and payment of tax on underused housing was payable on April 30, 2023 for the 2022 calendar year. CRA extended a penalty/interest-free period to November 1, 2023 for reporting and payment of this tax but on October 31, 2023 CRA has further extended this to **April 30, 2024**. The tax largely affects non-Canadians and non-residents but could be applicable to citizens/residents as well. You can review the legislation [here](#). The new legislation imposes a tax of 1% of the assessed value or the most recent purchase/sale price, whichever is greater. CRA has the right to lien the property for non-payment.

Class Action Settlement (Dye & Durham/Closure)

In *Burford Law Professional Corporate, et al v. Dye & Durham Limited, et al* (2023 ONSC 6008), Justice Morgan approved the settlement of the parties to dismiss the certification application on a without costs basis. The settlement can be found [here](#). It is without prejudice to any other potential litigant to bring his/her/their own claim within the limitation period. The settlement found that there was insufficient evidence to suggest that lawyers were suffering the loss/damage attributed to the increased fees charged by the Unity software, suggesting (without evidence) that most lawyers were or would pass those costs onto their clients, who would be the actual aggrieved parties (although those parties would not have the means to contractually engage with Dye & Durham in any event). Please notify your membership of this decision.

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

Mark Giavedoni
FOLA Real Estate Chair

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