



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

January 11, 2024

Dear Real Estate Representatives, Presidents and Library Staff,

Happy New Year! 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.

### **Director of Titles**

We are pleased to advise that the Federation of Chinese-Canadian Professionals (Legal Section) is raising funds for the Jeffrey Lem Memorial Scholarship in memory of Jeffrey Lem, Director of Titles, who died on September 3, 2023. For those interested in making a contribution, please see the Federation's website [here](#).

We are pleased to welcome Interim Director of Titles, **Rebecca Hockridge**. Ms. Hockridge has been appointed to the role of Director of Titles for a six month term and is actively attending to duties.

### **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 has ended. 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, certain administrative services have moved 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. Members may email [info@teraview.ca](mailto:info@teraview.ca) with any questions.

### **Federal Government Mandatory Disclosure Rules & Injunction**

On June 22, 2023, the federal government passed mandatory disclosure rules for specified 'reportable transactions', which are avoidance transactions coupled with a contingent fee arrangement, confidential protection or a contractual protection. These rules would apply to legal advisors, even if the transaction was reported by other advisors, such as accountants.

On November 24, 2023, the Supreme Court of British Columbia granted an interlocutory injunction prohibiting these disclosure rules for legal professionals pending a determination on the constitutionality of the mandatory disclosure rules (to be heard at a later date).

### **Federal Trust Reporting Requirements 2023**

The federal government has added new reporting requirements for trusts as of December 31, 2023, requiring all trusts (except for limited identified exceptions) to file T3 returns and a Schedule 15 report in connection with the trust property, beneficial owners and income derived therefrom. The reporting requirements are overly broad and will attach to situations where a family member is added to title as a joint tenant without acquiring a beneficial interest in the property (i.e. Historical estate planning tools). These trusts (by their trustees) will need to report within 90 days of year end (i.e. April 2, 2024). This could have sweeping implications on how many estates and real estate lawyers advise their clients and care should be taken to review the new rules and to determine if trust indentures should be a regular part of your offerings to clients who seek to add family members to bank accounts or real property.

These rules will also apply to trust accounts opened by lawyers/paralegals maintained as a separate trust for a particular client/clients or purpose. General trust accounts are NOT covered by these rules. The Federal Government's FAQ on this can be reviewed [here](#).

### **Bulletin 2023-08**

Effective December 9, 2023, there is a new mandatory statement (75) for all Charges/Mortgages instruments which confirms that added or imported text/schedules are legible and relate to the parties of the Charge. If you have a Charge in preparation prior to December 9, but attempt to register it on or after December 9, the mandatory statement must be selected before registration will be permitted.

### **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.

### **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 underusing 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.

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

*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.