



**Federation of Ontario  
Law Associations**

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**Fédération des associations  
de barreau de l'Ontario**

*Sent on behalf of the Federation of Ontario Law Associations (FOLA)*

July 31, 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.

**Know Your Client Rules and Bylaw 7.1**

Effective January 1, 2022, the Law Society implemented amendments to Bylaw 7.1 which requires lawyers to identify and verify their clients upon engagement and in the use of a trust account. This includes confirming the source of client funds, periodically monitoring the relationship when engaged in ongoing financial transactions, keeping required records and mandating withdrawal of representation in certain circumstances. The summary of these requirements can be found [here](#). These amendments were to integrate with the recommendations of the Federation of Law Societies of Canada.

These enhanced rules will impact real estate lawyers specifically as our engagement is routinely to facilitate the transfer of funds for our clients.

**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.

**Teraview News**

Please continue to frequently check Teraview for updates and newsletters from the Director of Titles as new functionality at Teraview is implemented. The launch of [MyTeraview](#) will help with a number of administrative functions for your licences. A prompt has been added for a capacity review when a charge is submitted for registration. In most cases, this can be overridden and proceed to registration. Additional information can be accessed [here](#).

### **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.

### **Federal Prohibition on the Purchase of Residential Property by Non-Canadians Act**

The federal government has passed legislation preventing non-Canadians from directly or indirectly purchasing residential property in Canada, which can be found [here](#). The legislation came into force **January 1, 2023** and the majority of the legislation is prescribed by regulation. Amendments to the regulations in March 2023 have reduced the overreaching scope of the Act but practitioners are encouraged to review the legislation for implications in their practices regularly.

### **Certified Specialist Program Consultation**

The Law Society of Ontario is consulting on the fate of the Certified Specialist Program, with particulars found [here](#). FOLA will be making representations and a submission in connection with this. If you would like your comments included, please send them to FOLA no later than **August 30, 2023**.

### **Consultation on Price Escalations/Consumer Protection for New Home Purchases**

The Government of Ontario is inviting responses to proposed amendments or enactments which will affect the new home construction industry, found [here](#). These proposed changes contemplate managing or fixing price escalations for new homes by way of pricing caps, regulating class actions in connection with new home sales and a regime for public disclosure of specified information in the construction process and project cancellations. Of notable interest is the prospect of a cooling off period for newly constructed freehold houses and a mandatory legal review for new home buyers. FOLA may be responding to this consultation and would appreciate any comments you have by August 7, 2023.

### **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 underusing housing was payable on April 30, 2023 for the 2022 calendar year. CRA has extended a penalty/interest-free period to November 1, 2023 for reporting and payment of this tax. The tax largely affects non-Canadians and non-residents but could be applicable to them. You can review the legislation [here](#). The new tax 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.

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.