

**EM3 – The Electronic Monday Morning Meeting**  
**Legal News and Information for Realtors and Mortgage Specialists**  
**Volume 15 - Friday, August 9, 2002**

Brought to you by:

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**INTRODUCTION & ANNOUNCEMENTS**  
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**1. New FAQ Sections are Live!**

As we announced last week, we have now broken up our FAQ (Frequently Asked Questions) sections into 3 separate parts: home buying, home selling and mortgages.

Based on the number of questions that we get asked to address we thought that it would be less confusing to approach it in this way. Please let us know your thoughts.

You can simply click onto any link on our site and you will see the new drop down menus at the bottom of any page. Please feel free to refer your clients to the website for free information that will help you service your clients better.

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**REALTOR/BROKER QUICK HELPERS**  
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This week's hint deals with the new Western Torrens Protocol system that we have started using. We think that this is a potential solution to interim financing in some limited cases so it is important that you understand what it is.

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## **1. A New Option for Assumption and Cash Deals**

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In our last issue of EM3 we brought forward the issue of interim financing for assumption and cash deals and why interim financing is more difficult to obtain. We also mentioned that there is a new option available which can help solve some of these problems.

The program we are talking about is the Western Torrens Protocol program which has recently been launched by the Law Societies of the western provinces. Essentially, this system is intended to help alleviate the problems associated with registration delays and to facilitate faster closings.

What we are outlining today is only a small part of what the program is. You don't need to know all of the details as it is most unlikely that you will ever need to know them or that it would help you. However, we think that this has great possibilities when faced with assumption and cash transactions.

What the Protocol entails is that the program allows the purchasers' lawyer and the lawyer for the sellers to close a transaction in anticipation of title transferring. The key here is that the lawyers have to anticipate that title will transfer and that certain actions necessary to it will occur.

An example of this is in a typical assumption transaction where something has occurred such that registration can't be completed in a standard manner. In this and other cases, the lawyers establish appropriate trust conditions whereby, amongst other things, the sellers' lawyer agrees to assist with correcting title if an error occurs post closing.

Once all the appropriate issues, including RPR's, are dealt with, the purchasers' lawyer can deliver the cash to close to the sellers' lawyer, submit the Transfer of Land to Land Titles for registration and essentially "close" the deal on the Completion Day even though formal registration of the title into the names of the purchasers has not yet occurred.

What allows this to happen is that the law society and the insurer have agreed to underwrite defects in title where all of the necessary steps under the program have been taken.

Though this is a simplistic version of how this works, our office has now successfully used the Program to close a number of cash and assumption deals and saved our clients significant interest charges for late closing. In some cases the delay was from the bank in providing assumption numbers or in some cases the sellers' lawyer was unable to deliver a Transfer in time to allow for registration.

The Program doesn't always eliminate the need for interim financing but we have used in some occasions to completely avoid it or to at the minimum reduce the interest costs paid on interim financing for our clients.

The reason why we are restricting our excitement on the Program to assumption and cash deals is that only one of the major banks has formally accepted this for new mortgage purchases. However, with that bank we have now started using the Program with great success.

Another problem is that not all lawyers understand the Program and are loath to use it. All that we can say is that we have used it with significant success in restricted cases.

You can expect to hear more about this in the future. We will keep you up to date as it progresses. Until that time, please continue to address the issue of interim financing with your clients so that they are not caught off guard.

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**REAL ESTATE ARTICLES**  
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We all know that home inspections are vital. Unfortunately, clients often refuse to obtain one or simply think that everything looks "fine" so there is no need to waste \$200 on something that isn't needed.

Our latest article tries to help convince clients that a home inspection is a vital part of their real estate transaction and that refusing to obtain one is risky at best.

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**1. Home Inspections are Vital**  
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The value of home inspections for first time home buyers cannot be overstated. In fact, it can't be overstated for any home buyer.

Too often, first time home buyers rely of the advice of friends and family and fail to make it a condition of their purchase contract that an inspection be done that is satisfactory to them. When those deals close, potential problems might not be discovered right away but might start to creep up within a few months. Maybe the furnace or air conditioning units have broken parts. Maybe the roof will be in need of replacement very shortly. All of these things can and do occur.

The potential problems when you purchase a home are many. Unless you are a qualified inspector yourself, it is unlikely that you will catch all of the potential problems. Licensed inspectors will have a detailed checklist of items to check that they have been trained to review. The advantage for you the home buyer is

that you don't have to contact a plumber, electrician, roofer, etc. to check all of the different systems within your potential new home.

The other advantage of a home inspection is that you have some level of comfort that you understand the condition of the home you are attempting to purchase. The main advantages for you are that you are keenly aware of what costs are facing you in future and that you now have some level of negotiating power with the seller if a serious problem is discovered.

So, a home inspector is an important part of the home buying process. You should discuss the issue with your real estate professional or lawyer before you start looking for a home to ensure that everyone is aware that it is an important facet to any transaction. If you are negotiating the contract yourself, make sure that you discuss the issue with a lawyer before making an offer so that you don't prejudice your rights in any way. . . .

Click on the link below or paste it into your browser window to finish reading it:

[http://www.calgaryl.com/home\\_inspections.html](http://www.calgaryl.com/home_inspections.html)

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**LAND TITLES WATCH!**

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As of Friday, 4:00 p.m. Land Titles was registering documents submitted on August 3, 2002, meaning that registration is 5 full business days! Land Titles was slowed by the August long weekend but we do expect times to quicken.

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**FINAL MESSAGES**

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We are adding some more new information and sections to our website as we develop it. If there is anything that you would like to see on the site please email us and let us know how we can best service your clients. The better our information is, we think the easier your job is.

Keep us informed of any comments you have about EM3 or with any questions you might want us to address. We can't answer every question in our newsletter but try to get back to everyone with an answer.

Have a Great Week Buying and Selling. Same Time Next Week

Ron Thibeault and Bill LeClair  
Barristers & Solicitors

<http://www.calgaryl.com>

Your Source for Information You and Your Clients Need

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**DISCLAIMER**

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The information provided is for general reference only. Prior to taking any actions, you should seek the advice of a lawyer to ensure that the steps you take to protect your client are sufficient.

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