

**EM3 – The Electronic Monday Morning Meeting**  
**Legal News and Information for Realtors and Mortgage Specialists**  
**Volume 12 - Friday, June 21, 2002**

Brought to you by:

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**INTRODUCTION & ANNOUNCEMENTS**  
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**1. G8 Conference Will Affect Us All**

The impacts of the upcoming G8 Conference will be significant if you are in the real estate industry. The two main effects from our perspective are that the City of Calgary offices will be on minimal service. This might seriously affect the payment and settlement of property taxes. We are addressing this issue with each and every client. Please warn all of your clients to discuss this issue with their lawyers so that the confusion is kept to a minimum

The second aspect that is of concern will be the effect on the Land Titles Office. It is expected that the LTO will be busy because of the volume of transactions at this time of year but we are not certain what impact the downtown closures will have. All lawyers in town should be aware of this so even if closings are delayed possessions shouldn't be affected.

**2. New Offices Are Working Great**

We have now moved into our new offices and most of the bugs have been ironed out. It has been a great move and we are excited to have you drop in to see it. We will be hosting an open house sometime near the end of July. Please email us for new cards at [christieg@calgarylaw.com](mailto:christieg@calgarylaw.com) and new cards will be forwarded to you. Remember that our new address is:

200, 1333 – 8<sup>th</sup> Street SW  
Calgary, Alberta  
T2R 1M6

Our phone and fax numbers will remain:

Ph. 403 245 3500  
Fax. 403 245 3357

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**REALTOR/BROKER QUICK HELPERS**  
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This week's hints deal with only a few of the issues relating to GST and getting Offers out as quickly as possible. These hints will help you understand what some of those concerns might be.

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**1. The GST Minefield**  
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GST remains one of the most confusing issues in real estate. There are a variety of factors that have to be taken into account in each and every circumstance where GST may be a factor.

Compounding this problem is that there are a number of different Offer contracts that deal with GST differently: whether it's a new construction contract, a standard Offer or a farm land offer. GST is dealt with differently in each case and so you have to be vigilant. A recent situation highlights the problems.

In the case in question a buyer bought a 5 acre parcel of land with a house and outbuilding on it. Turns out that the seller was using the outbuilding for growing his marijuana. His crop along with all of his generators and paraphernalia were laid out underneath the outbuilding.

The purchaser bought the property thinking that GST was not applicable as it was a residence. This being the case, they didn't address the GST question and neither did the Realtor.

A Revenue Canada opinion was sought and the determination was that the outbuilding by its very use was "commercial" in nature even though the commerce was illegal. The end result was that Rev Can deemed the 2 acre portion with the outbuilding and surrounding grounds were subject to GST with the remaining 3 acres exempt. Because of the contract that was used, the purchaser was forced to pay additional money to cover the GST. This couldn't be recovered because their use was non-commercial.

The key with every transaction is to ensure that GST is addressed with your client. Offers to Purchase are not consistent with some having the purchase price including GST and some of them excluding GST. This can have serious consequences for both the seller and buyer when it is not addressed.

If the Offer states that the Purchase Price includes GST and there is GST payable, then the seller has to come up with the GST from the proceeds of sale. If it does not include GST then the Purchaser is liable for GST over and above the Purchase Price if GST is applicable. In each case you can imagine the surprise if it hasn't been addressed.

The key for you is to ensure that you are using the right contract and that the issue of GST is addressed with your client. If there is any issue as to whether GST is or isn't included then you should make the deal conditional on a GST opinion from Rev. Canada.

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## **2. Faxing Offers to Save Time**

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One of the things that occur during busy periods in real estate is that support staff is overwhelmed with the volume of paperwork.

What we have been noticing more and more is that conveyancing is not being delivered with enough lead-time in order to get a deal completed. This is not a problem of the work being done but a symptom of the volumes that these people are dealing with. A recent example highlights this.

In this case, an Offer was accepted three weeks before possession with all conditions being removed. The Offer was not sent until 1 week before closing. Turns out that the Purchaser was out of the Province until 1 day before closing which meant that a Power of Attorney would have to be sent out and returned meaning that there was no possibility of the deal closing on time with interest to be paid.

This problem can be averted by the agent or client faxing a copy of the Offer to our office as soon as the Offer is accepted or as soon as the conditions are waived. The file can then be opened and any questions addressed well in advance.

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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 June 18, 2002, meaning that registration is 4 full business days! With the upcoming G8 conference no one is sure as to how Land Titles will be affected. Please warn all of your clients that there may be delays to closings that are unavoidable this upcoming week.

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**FINAL MESSAGES**

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We will be keeping you up to date as to the day of our reception. We are looking forward to seeing everyone and having you share in our celebration of our change of venue. The move has been great and has really helped in creating stronger efficiencies in our office. This then means that we can service you and your clients even better.

Have a Great Week Buying and Selling  
Same Time Next Week

Ron Thibeault and Bill LeClair  
Barristers & Solicitors  
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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