

**EM3 – The Electronic Monday Morning Meeting**  
**Legal News and Information for Realtors and Mortgage Specialists**  
**Volume 3 - Friday, March 22, 2002**

Brought to you by:

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**INTRODUCTION & ANNOUCEMENTS**  
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**1. Delivery of EM3**

Again this week we have added a number of new people to our list for EM3. Welcome to all of you and we hope that you are finding our newsletter useful.

As you will note, we try to deliver EM3 on Fridays but we sometimes are unable to do so. In those cases we will always try to get it out by Sunday or early Monday at the latest so that you get the information as soon as possible.

**2. Website Launch**

Our web site designers are now working with our web hosting service to upload all of the pages to our site. Though the process has been frustrating at times, we feel that the trouble will all be worth it and we hope that you will to.

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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 Power of Attorneys and to reviewing condo documents. These hints will help you understand what some of those concerns might be.

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## **1. Using Power of Attorneys to Purchase**

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Occasionally we run into situations where one or more parties to a purchase are not available to sign the required documents. Typically, we have these clients assign a Power of Attorney to a third party who can then sign the documents for them.

Normally, this does not cause any problems as this is allowable under law. However, we have recently become aware of a few financial institutions that will not allow mortgage documentation to be executed by way of Power of Attorney. The problems that this can cause are significant because the person giving the Power of Attorney is often out of town.

What complicates this even more is that the Power of Attorneys are sometimes required to be signed before the clients settle on a financial institution.

Though there is really no certain way to avoid this problem, one of the things that you can do to help avoid it is to ask your clients whether they will be available to sign documents a week before the projected possession date. If they are not, let your clients' lawyer know immediately so that the issue of a Power of Attorney is dealt with as soon as possible and so that the mortgage company can be contacted with regards to the issue.

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## **2. Reviewing Condominium Documents**

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We are often asked by clients to review the condominium documents for a purchase in accordance with the conditions of their contract.

Two things are a concern when this is done. First of all, likely the biggest issue facing a condo buyer today is the question relating to the adequacy of the reserve fund. Under Alberta law, all condo boards must complete a reserve fund study within the next few years.

The reserve fund study looks at the quality of the entire project, the remaining life of mechanical and structural items and more and then extrapolates this information into a proposal relating to condo fees in the future.

The problem is that lawyers are not financial analysts. Nor are we engineers with the appropriate training to determine whether the reserve fund study is on or off the mark. Essentially, this means that your client is not going to get the information they need which can lead to problems.

Our suggestion is that every condo buyer should be retaining the services of a condo review company, much like a home inspection for freehold properties.

These people are well versed in what is reasonable and are also intimately aware of most if not all of the major condo projects in the City.

By encouraging your clients to use these services you are not only protecting your client but you may also be saving the transaction.

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**FINAL MESSAGES**

The upcoming week will likely be a hectic one with both Friday and the following Monday being holidays that are observed by many companies. This also means that there will be a number of transactions that won't officially close until Tuesday even though you have possessions throughout the weekend.

Have a great Easter weekend.

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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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