

**EM3 – The Electronic Monday Morning Meeting**  
**Legal News and Information for Realtors and Mortgage Specialists**  
**Volume 9 - Friday, May 3, 2002**

Brought to you by:

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**INTRODUCTION & ANNOUCEMENTS**  
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**1. Adding A Link to Our Site on Yours**

As we develop our site we would like to encourage you to link to our site to help provide your visitors the information they need to help understand what it is you do and how the house closing process works.

If you would like to add a link to our site, please contact us via [pleasehelp@calgarylaw.com](mailto:pleasehelp@calgarylaw.com) and we will send you the code snippet that you can simply drop into your own site.

We are going to be adding a links page where we will gladly add links to your site as well. We will keep you posted as we go but feel free to send the URL to your website and we will add it as we progress.

**2. New Office Address**

Our move is coming quickly. Construction on our new office is now underway and everything looks to be proceeding according to plan.

Our current move date is scheduled for June 8, 2002. Our new address on that date will be as follows:

200, 1333 – 8<sup>th</sup> Street SW  
Calgary, Alberta  
T2R 1M3

If you would like to be added to our list of people to receive new business cards please email us with your address at christieg@calgarylaw.com so that new cards will be mailed to you before we move to make the transition as smooth as possible.

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**REALTOR/BROKER QUICK HELPERS**

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This week's hints deal with the issue of home alarm systems. This problem is ongoing and should be of concern to all real estate professionals.

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**1. Assuming Home Alarm Systems**

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In the current Offer to Purchase, we often see the addition of the home alarm system into the items to be included in the purchase. Alternatively, it is added into the contract that the Buyer will assume the alarm monitoring contract. Both of these often cause problems at closing.

Most home alarm systems are not owned by the home owner but are simply contracted to the home owner so long as the underlying monitoring contract is maintained. In those cases, it is not always possible for the home owner to simply transfer these systems as they may not in fact own it.

The other issue relating to home alarm systems is the monitoring contract which is often not assumable. In a number of circumstances, the Buyer is required to apply for the monitoring contract and the Seller is obligated to terminate the existing contract and payout a termination fee.

The end result of both situations is that the Seller is unable to transfer what was promised and the Buyer doesn't get what was expected. This can and does cause problems at closing.

The simple solution is to ensure that if you are acting for a Seller that you contact the alarm company to determine what the status of the contract is prior to accepting an offer on the property. Preferably, you should contact the alarm company as soon as you sign a listing contract so that you don't misrepresent on your listing what it is your clients are selling. Ultimately, if your clients accept an

Offer that includes the alarm system, they may be unable to effect a transfer of the system which is then a breach of contract.

If you act for a Buyer, you should discuss the issue with the listing Realtor prior to submitting an Offer and if you are unable to determine the status of the system from that discussion simply contact the alarm company yourself to determine the status. If you can't determine the status of the system, then make sure that the Offer clearly outlines who is responsible for the costs and penalties, if any, of transferring the system or monitoring.

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## **2. Feature Sheets Can Bite Too!**

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One of the most important pieces of paper that can create liability is the feature sheet or property information sheet that you present to potential buyers and their representatives.

The greatest concern here is where your property information sheet fails to represent or misrepresents a particular issue. Where this crops up is typically in relation to items that you have little ability to check or which you rely on the past information on a property to prepare your feature sheet.

The key is this: when you prepare a feature sheet you are making representations with respect to that property. Occasionally, it will turn out that an inspection discloses that the actual property is different than what has been outlined in the feature sheet. Alternatively, the Buyer after closing sometimes discovers that what was purchased was materially different than what was in the feature sheet.

The end result is that a Buyer might be left with an out of the Contract or, if the transaction has closed, a claim against your client and ultimately you. If the Buyer does walk and it is based on your property sheet and a misrepresentation on it, your own client might have a claim against you.

The argument has been raised that a limitation of liability clause will protect you irrespective of what you say on the feature sheet. But there is a large volume of case law that indicates that this shouldn't be relied on especially where you had the ability to correct the error without much effort.

Simply put, when it comes time to preparing a feature sheet you have to ensure that what you are representing is in fact the case. If there is something on your feature sheet that you are not certain of then it shouldn't be listed until you can actually confirm the status of the matter. This is the only way to guarantee that you are fully protected from liability.

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## **NEW ARTICLES – Link Popularity is Key**

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Link popularity is a concept that is misunderstood and undervalued. Getting a high ranked site in the larger search engines is a difficult and time-consuming process. This is even more difficult if you are just starting your own site or have never bothered to do your own marketing.

Any number of sites are claiming to help provide you with a search result for a particular term on the first 2 pages of a particular search engine. Have you ever stopped to think about how these services can do this for more than 20 sites since there are usually only 10 links per page?

In fact, the majority of services can get you to the top of a search engine for a rarely searched term because the competition for that term is usually very limited. The challenge is to get listed highly for terms that are popular like "real estate", etc. This is where the concept of "link popularity" plays a significant role....

Click on the link below to read the rest of this article

[http://www.calgarylawn.com/Link\\_popularity.html](http://www.calgarylawn.com/Link_popularity.html)

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## **ASK AWAY!**

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To ask your real estate or corporate question to us please send us an email at [pleasehelp@calgarylaw.com](mailto:pleasehelp@calgarylaw.com) and we will review it for you. We can't answer every question in our newsletter but if you have a short concise question that we think is of a concern for others we will include it. Remember, these questions are for general information only and you should consult your own attorney before acting on information you see here.

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Where would I go to obtain information on foreign ownership of Canadian land, both recreational and bare land?

Vicki Babcock

There are plenty of sources but the starting point should be the Foreign Ownership of Land Administration web site. Check it out to see the regulations as they apply to Alberta at:

<http://www3.gov.ab.ca/gs/information/registries/fola.cfm>

The Government of Canada has a similar web site at:

<http://lois.justice.gc.ca/en/C-29/SOR-79-416/>

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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 May 1, 2002, meaning that registration is 2 full business days! This is relatively quick and means that transactions are closing quite quickly for this time of year.

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**FINAL MESSAGES**

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Our move is quickly approaching and all of our staff, including ourselves, are getting excited. Please feel free to drop in after June 8, 2002, to take a look around.

We will be hosting an open house once things settle down and will announce the date for it in a future edition of EM3.

We have received great comments and help from all of you in making EM3 better suited for your needs. Your comments are always appreciated and keep them coming as we can only get better with your feedback.

Have a Great Week Buying and Selling  
Same Time Next Week

Ron Thibeault and Bill LeClair  
Barristers & Solicitors  
[www.calgaryl.com](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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