



Real Estate Bulletin

RIOPELLE GRIENER PROFESSIONAL CORPORATION

July 2008

Two-lawyer rule established to prevent fraud

It is important for real estate professionals to be aware there are new rules in place affecting the ability of lawyers to act for both sides of the same real estate transaction.

There are some exceptions but, generally speaking, a sole practitioner can no longer act for both the buyer and seller. However, at a firm with more than one lawyer, one can represent the buyer and another can represent the seller. Of course the usual conflict of interest rules continue to apply requiring that one or both parties obtain outside counsel if a conflict comes up that cannot easily be resolved. For example, if one party refuses to continue with the closing as agreed and the other wishes to proceed, this would require they each obtain independent legal advice from two lawyers in two different firms.

Examples of situations where one lawyer can act alone:

- if the transferor and transferee are the same person (ie. to register a severance);
- a transfer from estate trustee to a beneficiary;
- inter-family and intercorporate transfers between “related persons” as defined in the Income Tax Act (ie. when related by blood, common law relationship, adoption and related corporations);
- transactions in remote locations where only one lawyer is available.

TERAVIEW RESTRICTIONS

Another fraud prevention measure introduced at the same time now states only lawyers can register transfers of title electronically. The only exception to this rule is for transfers of title involving the government or municipalities. Therefore, banks, title insurance companies and paralegals can no longer register transfers.

If you have further questions, do not hesitate to call.

Regards,
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