

Disasters in Real Estate Practice: Tools and Strategies for Effectively Managing the Unexpected



Date: Wednesday, February 4, 2015 | 9:00 am - 12:20 pm

Location: Westin Harbour Castle Conference Centre,
2 Harbour Square, Toronto, ON

Program Chairs: **Sara Beheshti**, Barrister & Solicitor
Quinn Ross, The Ross Firm Professional Corporation
(Goderich & Stratford)

This program contains 1.0 Professionalism Hour
This program is eligible for up to 2.25 Substantive Hours

The OBA has been approved as an Accredited Provider of Professionalism Content by The Law Society of Upper Canada.

Countless unexpected issues can arise in a real estate transaction or practice. This program will help both new and seasoned practitioners understand their options and obligations when natural and other disasters threaten a transaction or the day-to-day operation of the law firm. Learn about the legal and practical issues at play when last-minute surprises take over your deal, either because the property is damaged or destroyed before closing or because outside forces have changed essential aspects of the transaction. Expert speakers will discuss key clauses in the agreement of purchase and sale, frustration of contract, remedies, and conduct and communication for the troubled transaction. You will also learn about the kind of events that can turn into disasters for your practice and will hear about strategies for managing and minimizing the impact of a host of unwelcome surprises.

9:00 am Welcome and Opening Remarks

9:10 am **Remedies**
The Honourable Mr. Justice Paul Perell, Superior Court of Justice

- When can you refuse to close?
- Merger and preserving your right to sue
- Dealing with latent defects and material misrepresentation when damage is discovered after closing

9:35 am **Property Damage and the Agreement of Purchase and Sale**
Bradley McLellan, WeirFoulds LLP

- Damage and destruction clauses
- Risk clause and equitable conversion

10:00 am **Rectification and Frustration of Contract**
Craig Carter, Fasken Martineau DuMoulin LLP

- Enforceability of purchase agreements where there has been a change in attributes e.g. illegality, greenbelt legislation, substantial expropriation, down-zoning, freezing orders due to fraud
- What to do when the contract is not consistent with the deal

10:25 am Networking Break

10:45 am **Extreme Weather Impacts on Residential Real Estate Transactions**
Heather Austin-Skaret, Mann Lawyers LLP (Ottawa)

- Working with the insurance clause in the OREA APS
- Navigating the troubled closing: negotiations, inspections, price abatements, delayed closings, tender, reporting to your client

11:10 am **Conduct and Communication When Your Deal is in Trouble**
Pamela Green, Pallett Valo LLP

- Duty of good faith in the troubled transaction
- Time is of the essence and lying in the weeds on closing

11:35 am **Managing Disasters for the Real Estate Lawyer or Firm**
Quinn Ross, The Ross Firm Professional Corporation (Goderich & Stratford)

Ray Leclair, Vice-President, Public Affairs, Lawyers' Professional Indemnity Company (LAWPRO®)
Tannis A. Waugh, Barrister and Solicitor

Moderator:

Sara Beheshti, Barrister & Solicitor

- What kind of events can turn into disasters for a lawyer or legal practice: sudden illness, family emergencies, power outages, giving and receiving bad cheques
- How do you prepare for the worst and what do you do when it happens: powers of attorney, technology, insurance coverage.

12:00 pm **Land Registration Update**

Jeffrey W. Lem, Director of Titles, Regulatory Services Branch, ServiceOntario, Ministry of Government and Consumer Services

12:05pm **Questions & Answers**

12:15 pm **Closing Remarks**

12:20 pm **Program Concludes**

Register at www.oba.org/institute2015
Questions? pd@oba.org