

## Your Practical Refinancing Toolkit

*Real Property Law*



In-Person



Webcast

**Date:** Tuesday, December 5, 2017 | 9:00 am to 12:15 pm

**Location:** Twenty Toronto Street Conferences and Events  
20 Toronto Street, 2<sup>nd</sup> Floor, Toronto

**Program Chair:** Ray Mikkola, Pallett Valo LLP



**Professionalism Hours:** This program contains 0h 30m

**Substantive Hours:** This is eligible for up to 2h 45m

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Professionalism Content by The Law Society of Upper Canada.*

Even with recent rising interest rates, Canadians are turning to residential and commercial refinancing in fairly high numbers for a variety of reasons. And your clients are turning to you. Attend this program to understand what is new in the world of refinancing, what you need to be doing in terms of due diligence, and why this is not a matter you should be delegating to your support staff.

Register now to join the discussion.

8:30am Registration and Coffee

9:00am Welcome and Opening Remarks

9:05am **Common Refinancing Pitfalls to Avoid**  
**Craig Carter**, Fasken Martineau DuMoulin LLP  
**David Carter**, Grechi Carter Professional Corporation

- Why you should consider discharging and re-registering security vs. proceeding by way of a mortgage amending agreement
  - Title insurance issues
  - Super lien priority
- Transfers and assignments of charge
- Covenants in a mortgage prohibiting subsequent financing
- Deciphering what is meant when a mortgage is described as “collateral”
- Understanding the importance of reviewing the terms of the mortgage, including standard charge terms, to ensure that they are consistent with the business terms of the refinancing transaction
- Special considerations dealing with construction loans
- Due diligence considerations when relying on existing searches
- Issues to be aware of regarding lines of credit and collateral mortgages
- Understanding from whom you are to be taking instructions (your client, brokers and title insurers)

9:50am **Refinancing and Associated Tenant Issues**  
**Andrew Fortis**, Hummingbird Lawyers LLP

- Priority issues
- How effective are nondisturbance letters and agreements?
- What is the role of actual knowledge in determining priority and other issues
- Understanding the 3-Year rule respecting unregistered leases
- What is the effect of options to purchase in a lease on subsequent mortgage?
- What level of due diligence surrounding leases would adequately serve a new lender client?
- Communication with your clients

10:40am **Mortgage Fraud: Developments and Trends**  
**Lori Swartz**, Lawyers’ Professional Indemnity Company (LawPRO®)

- Identity fraud in the *Computershare* case respecting fraudulent discharges
- New trends and how to avoid being a victim

11:00am **Guarantees**  
**Eric Laxton**, Lash Condo Law

- What are purposes and limitations of guarantees and the standard provisions within them?
- What you need to know about the enforceability of guarantees in refinancing scenarios
- Case law regarding limitations on guarantees
- Dealing with the enforcement of guarantees by assignees of a mortgage
- Conflicts of interest and when to require independent legal advice

11:35am **Super Lien Priorities at Play in Refinancing Transactions**  
**Alex Ilchenko**, Pallett Valo LLP

- In which circumstances can the Crown enforce a debt in priority to traditionally secured debts?
- Setting out the limitation on the exclusion to crown priorities respecting principle owing under a mortgage
- Issues surrounding the timing of the registration of the mortgage
- How a lender can protect itself
- The reasonable competence of the lawyer
- Proper communication with your client regarding priorities

12:10pm Q&A

12:15pm Program Concludes

Sponsored by



10:25am Networking Break

**PROGRAM REGISTRATION IS ONLINE** [www.oba.org/pd](http://www.oba.org/pd)

**Questions?** [pd@oba.org](mailto:pd@oba.org)

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