

CERTIFIED SPECIALIST PROGRAM

STANDARDS FOR CERTIFICATION REAL ESTATE LAW

Definition of Real Estate Law Specialty

1. The practice of Real Estate Law is the practice of law dealing with matters relating to real property interests including, but not limited to real estate and other related property conveyances, title and related searches, leases, easements, condominiums, cooperatives and other forms of co-ownerships, mortgages and mortgage enforcement, zoning and land use planning, real estate development and financing, real estate remedies and litigation and determination of real property rights.

Designation

2. An applicant who is certified as a specialist in Real Estate Law may be identified as a *Certified Specialist (Real Estate Law)*.

Achieving Specialist Certification in Real Estate Law

3. Applicants must comply with the requirements for certification set out in the Policies Governing the Law Society's Certified Specialist Program ("Policies"), particularly those relating to:
 - Minimum Years of Practice and Recent Experience;
 - Substantial Involvement in the Specialty Area;
 - Professional Development;
 - References;
 - Professional Standards; and
 - Application Fee
4. Applicants must satisfy the following requirements in order to demonstrate their substantial involvement in real estate law:
 1. averaged over the 5 years of their recent experience applicants will have devoted a minimum of 30% of their practice concentration to real estate law; and
 2. during the 5 years of their recent experience applicants will have attained broad and varied experience and a mastery of substantive law and procedures in real estate law and complied with the Real Estate Experience requirements below.
5. In the event that applicants do not entirely meet the experience requirements, they may apply to the Society for consideration of their individual circumstances or their related (non-practice) skills. Consideration will be given in circumstances where applicants have:

- (a) limited their practice in recent years to a particular area of real estate law or have been involved in matters of extraordinary length and complexity; or
- (b) engaged in advanced course work or performed related activities such as teaching, authoring books or articles for publication, completing post-graduate or other studies, participating in the development and/or presentation of professional development programs, research, participating in the policy development process, drafting legislation and/or instruments, participating as active members on boards or tribunals, or on the executive of any organization related to real estate law or any other experience that applicants consider relevant to their application.

Applicants applying for consideration under this paragraph must, in addition to the brief description of their practice required pursuant to paragraph 6, include with their application

- (c) a detailed description of their individual circumstances or related (non practice) skills; and
 - (d) references from the institutions or organizations from which their experience is drawn, references from peers, samples of writing and/or research, and a complete list of publications.
6. All applicants must include a brief description (no more than 100 words) of the nature of their practice in relation to the specialty area.

Real Estate Law Experience

7. During the 5 years of their recent experience applicants must have performed:
- (a) all of the tasks listed in the Core Requirements enumerated below;
 - (b) a total of at least 50 tasks in at least 3 of the 6 Conveyancing Advanced Requirements Categories enumerated below; and
 - (c) a total of at least 42 tasks in the Advanced Requirements enumerated below.
8. Applicants are asked to place a check mark (✓) next to the tasks they are selecting from the advanced requirements categories below to demonstrate their real estate law experience and include the Standards with their application package, along with any supplementary information required in the Standards.
9. It is recognized that the items listed are not of equal complexity and will take that into consideration. In addition, consideration will be given to the special circumstances of the applicant in accordance with paragraph 5 above when assessing an application.

(a) Core Requirements

- 1: Agreements of Purchase and Sale
 - Prepare, review and negotiate agreements of purchase and sale.
- 2: Title Searches
 - Review and interpret title searches

- 3: Requisitions
 - Draft and respond to requisitions
- 4: Surveys and Related Plans
 - Review and interpret surveys, subdivision plans, reference plans and other plans
- 5: Subdivision Control
 - Advise clients with respect to the Planning Act implications of a transaction
 - Review subdivision control and Planning Act compliance with clients
- 6: Financing
 - Prepare and review mortgage and other related security documents and opine to the lender
- 7: Preparation For Closing the Transaction
 - Prepare and/or review closing documents
 - Meet and advise clients prior to closing
 - Organize and handle client funds
- 8: Closing the Transaction
 - Supervise and/or close the transaction
- 9: Remedies
 - Advise clients with respect to remedies
- 10: Title Insurance
 - Advise clients with respect to methods of assuring title including title insurance where appropriate
- 11: Reporting on the Transaction
 - Report on transactions
- 12: Leases
 - Prepare and/or review leases

(b) Conveyancing Advanced Requirements

Category 1: Mortgages – Commercial and Residential

- Negotiate, prepare and/or review a loan agreement or commitment for mortgage of any three of the following:
 - Office building
 - shopping mall
 - retail strip mall
 - industrial facility
 - mixed use residential building
 - duplex and/or triplex
 - apartment building
 - vacant land for development
 - hotel
 - recreation facility
 - parking lot

- nursing home
- retirement home
- farm
- retail stand alone building
- mineral rights
- medical building
- gas station
- cemetery
- other – please specify _____
- Undertake due diligence, respond to requisitions, supervise closing of transaction and advance of funds and report to client(s) in a commercial mortgage transaction
- Represent a client with respect to the completion of a mortgage transaction for a condominium unit
- Represent a client with respect to the completion of a mortgage transaction for a condominium
- Represent a client with respect to the completion of a mortgage transaction for a cottage property
- Represent a client with respect to the completion of a mortgage transaction for a rural property
- Represent a client with respect to the completion of a mortgage transaction for a cooperative
- Represent a client with respect to the completion of a mortgage transaction for a bare trust
- Advise client(s) on fraud related issues
- Prepare, review and/or advise on a guarantee
- Prepare, review and/or advise on a debenture or trust deed and/or related document
- Prepare, review and/or advise on an assignment of lease
- Prepare, review and/or advise on an assignment of rents
- Prepare, review and/or advise on a general security agreement and Personal Property Security Act (PPSA) documents
- Advise on PPSA issues
- Negotiate and/or advise on priorities of encumbrances and prepare and/or review appropriate documentation (such as a postponement agreement or a subordination agreement)
- Prepare and/or review lender’s standard form mortgage documentation;
- Negotiate and/or advise on environmental requirements in connection with mortgage transaction
- Advise a client on issues relating to lending to a bare trust
- Advise a client on prepayment rights in a mortgage
- Advise a client on portability provisions in a mortgage
- Advise a client on “due on transfer” provision in a mortgage
- Act for a mortgagee in negotiating or preparing a non-disturbance agreement or a three party agreement

Category 2: Real Estate Development And Financing

- Represent and/or advise an owner on the sale of property for real estate development
- Represent and/or advise a developer on real estate development of residential properties
- Represent and/or advise a developer on real estate development of commercial and/or industrial properties
- Represent and/or advise architects, engineers, surveyors, consultants, contractors, and/or subcontractors involved in a development project
- Prepare and/or advise a client on the standard form agreement of purchase and sale for sales of individual properties once developed

- ❑ Represent and/or advise clients on the completion of purchase and/or sale transactions of individual properties once developed
- ❑ Negotiate, prepare and/or advise clients on site plan control agreements
- ❑ Negotiate, prepare and/or advise clients on construction management agreements
- ❑ Negotiate, prepare and/or advise clients on subdivision agreements
- ❑ Negotiate, prepare and/or advise clients on development agreements
- ❑ Negotiate, prepare and/or advise clients on bonusing agreements
- ❑ Negotiate, prepare and/or advise clients on development charges agreements
- ❑ Negotiate, prepare and/or advise clients on front ending agreements
- ❑ Negotiate, prepare and/or advise clients on miscellaneous municipal development agreements
- ❑ Negotiate, prepare and/or advise clients on utility easements
- ❑ Represent and/or advise a client on a financing transaction for a development project
- ❑ Represent and/or advise a client on GST issues
- ❑ Represent and/or advise a client on Ontario New Home Warranty Program issues
- ❑ Represent and/or advise a purchaser on the purchase of a new single family residential property
- ❑ Represent and/or advise a purchaser on the purchase of a new condominium unit
- ❑ Advise a client with respect to the limitation of protection of deposit monies under the Ontario New Home Warranty Program, excess deposit insurance and the Certificate of Completion and Possession
- ❑ Advise a client with respect to the rebate for first time home buyers

Category 3: Estate Conveyancing

- ❑ Represent a client with respect to a transfer of property under the Registry system by an Estate Trustee with a Will annexed
- ❑ Represent a client with respect to a transfer of property under the Registry system by an Estate Trustee Without a Will annexed for the purposes of payment of debts
- ❑ Represent a client with respect to a transfer of property under the Registry system by an Estate Trustee Without a Will annexed for the purposes of distributing the proceeds of sale among the beneficiaries
- ❑ Represent a client with respect to a transfer of property under the Registry system by an Estate Trustee to beneficiaries with or without a court order
- ❑ Represent a client with respect to a transfer of property under the Registry system where the property has vested in the beneficiaries
- ❑ Represent a client with respect to a transfer of property to the surviving joint tenant(s) under the Registry system
- ❑ Represent a client in obtaining and registering under the Registry system, Certificate of Appointment of Estate Trustee With a Will
- ❑ Represent a client in obtaining and registering under the Registry system, Certificate of Appointment of Estate Trustee Without a Will
- ❑ Represent a client with respect to the transfer of a property to the surviving joint tenant (s) in the Land Titles system
- ❑ Represent a client with respect to the preparation of a transmission application registering the Estate Trustee without a Will Annexed as Owner of the property
- ❑ Represent a client with respect to the preparation of a Transmission Application registering the heir at law as Owner
- ❑ Represent a client with respect to the preparation of a Transmission Application registering the Estate Trustee with a Will Annexed as owner
- ❑ Represent a client with respect to the preparation of a Transmission Application registering the Beneficiary Under the Will (Devisee) as owner

- ❑ Represent a client with respect to a conveyance of property under the Land Titles system by the Estate Trustee to persons beneficially entitled thereto, with or without a Court Order
- ❑ Represent a client with respect to a sale by the persons beneficially entitled before the interest in the real property has vested, with or without a Court Order
- ❑ Represent a client with respect to a sale of property by the persons beneficially entitled after the interest in the property has vested to beneficiaries
- ❑ Advise a client on election rights under section 5 of the *Family Law Act*
- ❑ Advise a client on a conveyance of land in which a minor has an interest
- ❑ Advise a client on a conveyance of land beneficially owned by a person with a mental disability

Category 4: Rural And Cottage Conveyancing

- ❑ Negotiate, advise on and/or prepare an agreement of purchase and sale with respect to a cottage property dealing specifically with septic, potable water and rights of way issues
- ❑ Negotiate, advise on and/or prepare an agreement of purchase and sale with respect to a rural property
- ❑ Represent a client with respect to completion of the purchase and/or sale of a cottage property
- ❑ Represent a client with respect to completion of the purchase and/or sale of a rural property
- ❑ Advise a client with respect to access to property (year round or seasonal road, unopened road allowance, Crown lands, private and/or deeded right of way, Road Access Act, water access)
- ❑ Advise a client with respect to Crown Patent reservations and exceptions and/or existence of shore road allowance
- ❑ Advise a client with respect to shoreline ownership and/or riparian rights
- ❑ Advise a client with respect to navigable waters issues

Category 5: Commercial Transactions

- ❑ Negotiate prepare and/or review an agreement of purchase and sale of a commercial property
- ❑ Negotiate prepare and/or review an agreement of purchase and sale of an industrial property
- ❑ Negotiate, prepare and/ or review an asset purchase agreement
- ❑ Negotiate, prepare and or review a share purchase agreement
- ❑ Represent a client in a purchase or sale of any three of the following:
 - ❑ office building
 - ❑ shopping mall
 - ❑ retail strip mall
 - ❑ industrial facility
 - ❑ mixed use residential building
 - ❑ duplex and/or triplex
 - ❑ apartment building
 - ❑ vacant land for development
 - ❑ hotel
 - ❑ recreation facility
 - ❑ parking lot
 - ❑ nursing home
 - ❑ retirement home
 - ❑ farm
 - ❑ retail stand alone building
 - ❑ mineral rights
 - ❑ farm quota

- medical building
- gas station
- cemetery
- other, please specify _____
- Advise a client with respect to environmental issues

Category 6 : Condominiums

- Prepare and/or review an agreement of purchase and sale of a residential condominium unit
- Prepare and or review an agreement of purchase and sale of a commercial and/or industrial condominium unit
- Represent a client in the completion of a purchase and/or sale of a residential condominium unit
- Represent a client in the completion of a purchase and/or sale of a commercial or industrial condominium unit
- Advise a client with respect to a status certificate
- Advise a client with respect to interim possession of condominium unit
- Prepare a standard form agreement of purchase and sale for new condominium units
- Prepare, review and/or advise on a Disclosure Statement
- Prepare and/or review a Declaration
- Prepare and/or review By-Laws and/or Rules of the Condominium Corporation
- Advise client on reserve fund issues
- Represent a client on the formation of or advise on a leasehold condominium
- Represent a client on the formation of or advise on a vacant land condominium
- Represent a client on the formation of or advise on a common elements condominium
- Represent a client on the formation of or provide advice on a phased condominium
- Represent a client on the formation of or advise on a mixed use condominium
- Prepare or advise on on a shared facility agreement
- Prepare or advise on a common expense lien
- Prepare and or advise on an easement agreement
- Advise and/or provide an opinion to the Board of Directors of a condominium corporation on the requirements of the *Condominium Act* (such as breaches of rules, by-law requirements, meeting and notice requirements)

(c) Advanced Requirements

Category 1: Leases

- Prepare and/or advise a client regarding a commercial lease
- Prepare an assignment of lease
- Negotiate and/or prepare a landlord's consent to an assignment of lease
- Provide legal advice on whether a landlord has reasonably withheld its consent
- Provide legal advice on what basis a landlord could arbitrarily withhold its consent
- Prepare and register a notice of assignment of lease
- Prepare and register a leasehold charge
- Advise a client on special mortgage issues relating to a leasehold charge
- Negotiate and/or prepare a three party agreement with the landlord, tenant and leasehold chargee
- Prepare an agreement between the freehold mortgagee and the leasehold mortgagee
- Advise a client on the special risks relating to a sublease and the remedies in the case of default by sublandlord

- Prepare a notice of default under a lease
- Conduct a distraint
- Advise a tenant with respect to rights and obligations arising out of a lease default
- Advise a landlord with respect to the available remedies for a lease default
- Advise a client on the special issues relating to non-disturbance agreements and attornment agreements
- Prepare a non-disturbance agreement
- Prepare attornment agreement
- Advise a landlord of rights in relation to subtenants

Category 2: Specialty Titles

- Negotiate and/or prepare a co-ownership agreement
- Negotiate and/or prepare a management agreement
- Prepare a bare trust agreement
- Advise a client on legal issues relating to insurance trusts
- Negotiate and/or prepare an insurance trust agreement
- Advise a client of rights arising out of the Partition Act
- Prepare cross charges
- Exercise buy/sell rights in a co-ownership agreement
- Negotiate and/or prepare a shared facilities agreement
- Provide legal advice to client on how to exit from co-ownership arrangements
- Advise mortgagee of special risks of lending to one co-owner
- Advise client of issues where other co-owner wishes to mortgage co-ownership interest
- Prepare an easement agreement
- Prepare a notice of claim under the *Registry Act* to protect easements
- Consider the law relating to acquisition of easements other than by express grant
- Assert prescriptive easement
- Act for a mortgagee charging an easement
- Provide a legal opinion on the validity of an easement where there is no express grant
- Advise a client on the law relating to increasing the burden on an easement
- Advise a client on the repair obligations under an easement
- Advise a client on the enforceability of positive covenants under the easement
- Prepare a mutual easement agreement
- Prepare an irrevocable license
- Prepare and/or review a profit a prendre
- Advise client on the validity of an easement where the owner of the dominant and servient tenement are the same
- Prepare an assignment of a nursing home license
- Advise a client on a life lease or mortgage thereof
- Act on the purchase and/or sale of a co-op unit
- Advise a client with respect to the enforceability of restrictive covenants and/or positive covenants
- Advise a client on issues relating to holding title in partnership

Category 3: Mortgage Remedies

- Advise or represent a mortgagee in a foreclosure action
- Advise or represent a mortgagor in a foreclosure action
- Advise or represent a subsequent encumbrancer in a foreclosure action
- Represent a client in an action on the covenant or guarantee

- Represent a client in a motion for summary judgment in a mortgage action
- Represent a client on an application to take accounts, change accounts and motions for judgment in a foreclosure action
- Represent a client to re-open a Final Order of Foreclosure
- Represent a client on a motion to stay mortgage proceedings
- Represent a client on an assessment of costs
- Represent a client in a judicial sale proceeding
- Represent a client in converting a sale action to a foreclosure action
- Represent a mortgagee in a power of sale proceeding (including sale of property)
- Represent and/or advise a mortgagor in a power of sale proceeding
- Represent and/or advise a subsequent encumbrancer on power of sale proceedings
- Prepare and serve notices to attorn rents
- Represent a client in an action for possession
- Represent a mortgagee on an application to the Court to exercise power of sale without notice
- Represent a mortgagor on an application to the Court for relief pursuant to s.22 of *Mortgages Act*
- Represent a mortgagor in a Court application for injunctive relief
- Represent a mortgagor or mortgagee on an action to recover deficiency and costs
- Prepare an opinion on the choice of mortgage remedies
- Advise on, prepare and/ or negotiate a forbearance agreement
- Advise a client on the legal obligations arising out of taking possession

Category 4: Zoning And Land Use Planning

- Advise on and/or represent a client with respect to a minor variance
- Advise on and/or represent a client with respect to a severance
- Advise on and/or represent a client with respect to rezoning
- Advise on and/or represent a client with respect to an official plan amendment
- Advise on and/or represent a client with respect to a bylaw amendment
- Advise on and/or represent a client with respect to subdivision approval
- Advise on and/or represent a client with respect to remedying subdivision control contravention
- Advise on and/or represent a client with respect to interim control by-laws
- Advise on and/or represent a client with respect to an expropriation
- Advise on or represent a client with respect to heritage control matters
- Advise on or represent a client with respect to demolition control matters
- Advise on or represent a client with respect to a legal non-conforming use

Category 5: Remedies

- Represent and/or advise a client on terminating the agreement of purchase and sale
- Represent and/or advise a client on a formal tender
- Represent and/or advise a client in obtaining a final release and return of deposit
- Represent and/or advise a client in a claim against third parties i.e. real estate agents, appraisers, surveyors, solicitors
- Represent and/or advise a client in an action for rescission
- Represent and/or advise a client in an action for specific performance
- Represent and/or advise a client in an action for damages
- Represent and/or advise a client in an action for determination
- Advise a client on or undertake a title repair
- Advise a client on or undertake a zoning repair

- ❑ Advise a client on or undertake a Planning Act repair
- ❑ Prepare and register a caution
- ❑ Obtain a certificate of pending litigation

Category 6: Real Estate Litigation

- ❑ Represent a client at a hearing or trial of an application or action dealing with adverse possession or a boundary dispute
- ❑ Represent a client at a hearing or trial of an application or action dealing with prescriptive easements
- ❑ Represent a client at a hearing pursuant to an Application made under the *Vendors & Purchasers Act*
- ❑ Represent a client at trial with respect to an action for specific performance of a real estate contract
- ❑ Represent a client at trial with respect to an action for damages arising out of a real estate contract
- ❑ Represent a client at trial of an action for return of a deposit or relief from forfeiture of a deposit made pursuant to a real estate contract
- ❑ Represent a client at a hearing or trial of an application or action for a declaratory order (extent of interest in land / rights of way / outstanding mortgage etc)
- ❑ Represent a client at trial in mortgage enforcement proceedings;
- ❑ Represent a client at trial in an action relating to physical defects in real property
- ❑ Represent a client at trial in an action for breach of a warranty, condition or misrepresentation arising out of a real estate transaction
- ❑ Represent a client at trial in an action against a realtor
- ❑ Represent a client at a hearing into ethical or other conduct of a realtor
- ❑ Represent a client in an application to the Court to order deletion of a charge or other interest from the register pursuant to the *Land Titles Act*
- ❑ Demonstrated significant legal research in any of the above matters
- ❑ Represent a client in a partition application

Category 7: Opinions On Real Estate Issues

- ❑ Provide an “expert” opinion to other counsel with respect to interests in land for use in litigation or anticipated litigation
- ❑ Provide an opinion to a client with respect to interests in land for use in litigation or anticipated litigation
- ❑ Provide an opinion to client as to solicitor’s negligence in real estate matters or the standard of care in real estate transactions
- ❑ Appear as an “expert” witness in litigation as to real estate law or practice
- ❑ Prepare a factum on a real estate application

Category 8: Construction Liens

- ❑ Provide Section 19 notice to a landlord of an improvement to be made for a tenant
- ❑ Respond to a Section 19 notice on behalf of an owner/landlord
- ❑ Prepare and deliver a request for information under Section 39
- ❑ Respond to a request for information under Section 39
- ❑ Prepare and register a Claim for Lien
- ❑ Prepare and serve a Claim for Lien in circumstances where Lien does not attach to land
- ❑ Bring a motion to vacate a Claim for Lien on posting security – uncontested (Section 44(1))

- ❑ Appear on a motion to vacate a claim by posting security – contested (Section 44(2))
- ❑ Appear on a motion to discharge a Claim for Lien without the posting of security
- ❑ Attend on a cross-examination on an Affidavit of Verification
- ❑ Commence an action to enforce a Claim for Lien
- ❑ Prepare and register a Certificate of Action
- ❑ Attend on a motion for directions in a Lien action
- ❑ Attend at a settlement meeting in a Lien action
- ❑ Obtain a Judgment referring a Lien action to the Master for trial
- ❑ Represent an “Owner” Defendant in a Lien action
- ❑ Represent a general contractor Defendant in a Lien action
- ❑ Represent a subcontractor Defendant in a Lien action
- ❑ Appear on a motion for the reduction or return of security
- ❑ Appear on a motion to discharge a Lien for failure to comply with Section 37
- ❑ Appear as counsel at the trial of Lien action
- ❑ Appear as counsel at a reference of a Lien action
- ❑ Bring a motion to oppose confirmation of a Master’s Report to a Lien action
- ❑ Perfect an appeal from a Judgment in a construction-related action
- ❑ Appear on an appeal in a construction-related matter
- ❑ Bring proceedings to enforce a Lien Judgment by the sale of the land
- ❑ Bring proceedings to enforce a Lien Judgment from the proceeds of a Lien Bond
- ❑ Bring proceedings to enforce a personal Judgment in a construction-related action

Category 9: Residential Rental

- ❑ Advise on the applicability of the *Tenant Protection Act, 1997* to a unit and/or residential complex
- ❑ Advise on the rights of a landlord to enter a unit
- ❑ Advise on the specific responsibilities of the landlord and/or tenant regarding the state of premises
- ❑ Advise on the obligations upon the death of a tenant
- ❑ Advise on the rights and/or obligations related to conversion, renovation and/or re-development of a residential rental property
- ❑ Advise on the legality of rent and/or obligations respecting security deposits or payment methods
- ❑ Advise on the rights and/or obligations respecting rent increases or decreases
- ❑ Advise on the rights and/or obligations under the *Tenant Protection Act, 1997* respecting mobile home parks and/or land lease communities
- ❑ Advise on the rights and/or obligations under the *Tenant Protection Act, 1997* respecting care homes
- ❑ Advise on the rights and/or obligations respecting residential tenancies arising under the *Human Rights Code*
- ❑ Advise on residential tenancy issues in the context of the purchase, sale or mortgaging of a residential rental property
- ❑ Represent a client in negotiating and/or preparing a residential lease
- ❑ Represent a client in drafting and/or reviewing Care Home Information Package
- ❑ Represent a client in negotiating and/or drafting an agreement to increase or decrease rent
- ❑ Represent a client in negotiating and/or preparing an agreement to terminate
- ❑ Represent a client in a proceeding to terminate the tenancy
- ❑ Represent a client in a proceeding to enforce an eviction order
- ❑ Represent a client in a proceeding for rent refund, rent abatement, or other compensation
- ❑ Represent a client in a proceeding for above guideline rent increase

- ❑ Represent a client accused of committing an offence under the *Tenant Protection Act, 1997* or predecessor statute
- ❑ Represent a client on an appeal, re-hearing and/or set aside proceeding arising from an order issued under the *Tenant Protection Act, 1997* or predecessor statute

Category 10: Title Insurance

- ❑ Prepare an opinion on the suitability of proposed policy for a subject property
- ❑ Advise a client on the obligations of the insurer and/or the insured under an existing title policy
- ❑ Represent an insurer in drafting a standard-form policy, endorsements, and/or title-insurance related contracts
- ❑ Represent a client in negotiating and/or drafting specific exceptions to coverage
- ❑ Represent a client in negotiating and/or drafting specific endorsement(s)
- ❑ Represent a client in negotiating a premium
- ❑ Represent a client in filing and/or settling a claim under a title insurance policy
- ❑ Represent a client in arbitration under a title insurance policy
- ❑ Undertake the repair of a title problem to satisfy obligations of the insurer under the title policy
- ❑ Advise a client on insurance issues in non-arms length transactions

Category 11: Real Estate Tax Related Issues

- ❑ Prepare an opinion on a real estate-related issue under the *Income Tax Act*
- ❑ Prepare customized clauses for an agreement of purchase and sale, lease and/or mortgage of real property to implement tax minimization or deferral strategy under the *Income Tax Act*
- ❑ Represent a client with respect to a butterfly transaction related to real property under Section 55 of the *Income Tax Act*
- ❑ Represent a client to obtain a certificate from Canada Customs & Revenue that a non-resident client has paid, or given adequate security, for income tax arising on disposition of real property
- ❑ Search title to assist in determination of ACB for income tax purposes
- ❑ Prepare and register Declaration of Principal Residence
- ❑ Prepare an opinion on the exigibility of Land Transfer Tax
- ❑ Prepare customized clauses for an agreement of purchase and sale and/or lease of real property to implement tax minimization strategy under *Land Transfer Tax Act*
- ❑ Prepare documents to implement tax waiver between parties to a transaction, such as trustee and beneficial owner
- ❑ Undertake necessary arrangements to pay land transfer tax directly to Ministry of Revenue
- ❑ Undertake necessary inquiries of/filings with Ministry of Revenue to determine value of real property for land transfer tax purposes in context of foreclosure
- ❑ Report to Ministry of Revenue (and/or advise a client regarding reporting) re: transfer to affiliate to obtain deferral of Land Transfer Tax under Section 39 of *Land Transfer Tax Act*
- ❑ Represent a client during an investigation and/or enforcement proceeding under *Land Transfer Tax Act*
- ❑ Represent a client on an objection to assessment under *Land Transfer Tax Act* and/or on appeal of Minister's decision
- ❑ Represent a client on a prosecution for an offence under *Land Transfer Tax Act*
- ❑ Represent a client seeking a refund under the *Land Transfer Tax Act*
- ❑ Prepare an opinion and/or advise a client on the exigibility of Goods & Services Tax under the *Excise Tax Act* (Part IX) related to the supply of real property

- ❑ Prepare customized clauses for an agreement of purchase and sale and/or lease to implement a strategy regarding Goods & Services Tax
- ❑ Prepare a builder's standard-form document(s) re: Goods & Services Tax rebate for new homes
- ❑ Prepare an opinion on an assessment of real property for realty tax purposes
- ❑ Represent a client during an appeal from assessment or re-assessment
- ❑ Advise a non-resident client in respect of a purchase of real estate and in particular the tax implications of ownership of property in Canada

Category 12: Aboriginal Issues

- ❑ Advise a client on rights and/or obligations related to aboriginal title or interests in land, which may include rights arising by treaty
- ❑ Advise a client on rights and/or obligations related to reserve land
- ❑ Advise a client on title issues arising from/related to a Reserve Land Registry
- ❑ Advise a client on First Nations governance and/or management issues respecting land
- ❑ Represent a client in an "on reserve" real estate transaction, which may include allotments by Band Council, leases and/or permit occupations under the *Indian Act*
- ❑ Represent a client respecting a surrender of reserve land
- ❑ Represent a client accused of committing an offence under the *Indian Act* related to ownership of land or the use thereof
- ❑ Represent a client on an appeal or similar proceeding arising from an order issued under the *Indian Act* related to ownership of land or the use thereof
- ❑ Represent a client in negotiating, drafting and/or resolving aboriginal land claim

Category 13: Miscellaneous Issues

- ❑ Advise a client on severing a joint tenancy
- ❑ Advise a client on the issues and risks of a non-arms length transaction
- ❑ Advise a client on the issues and risks of inter-spousal transfers
- ❑ Provide independent legal advice relating to a transfer, mortgage or guarantee
- ❑ Recommend and insist that a client obtain independent legal advice
- ❑ Advise a client on the issues and risks regarding failure to obtain independent legal advice
- ❑ Advise a client with respect to a non est factum dispute

Professional Development

10. Applicants must attest to the completion of the professional development requirements. The requirements are:
- (a) not less than 50 hours of self-study; and
 - (b) not less than 12 hours of relevant professional development, in the two years immediately preceding the date of application date and any other year within the five years of recent experience.

The 12 hour professional development requirement may be met through participation at CLE programs or through alternative methods such as, but not limited to:

- (c) teaching or being guest lecturer on a course in the specialty area;
- (d) writing and editing of published books or articles relating to the specialty area;
- (e) graduate or post-graduate studies in the specialty area;
- (f) involvement in the development and/or presentation of professional development programs related to the specialty area;

(g) involvement in the development of policy related to the specialty area.

References

11. Applicants must submit 4 references from legal practitioners eligible to practise law in Ontario who have direct knowledge of the applicant's work in the specialty area in the 5 years of the applicant's recent experience and can attest to the applicant's competent performance of the tasks outlined under Real Estate Law Experience. Applicants must provide to the referees a copy of the Standards and let them know which categories in the Standards they have selected to demonstrate their experience.
12. Applicants should not include as reference: judges, partners, associates, co-workers, employers, employees, relatives, 3rd party neutrals, members of the Certified Specialist Board, benchers or employees of the Law Society.
13. The Statements of Reference must be submitted with the application to the Law Society in confidential envelopes which have been sealed, signed and dated by the referees. Envelopes which have been opened or appear to have been tampered with will not be accepted.

Application Assessment

14. The Society will consider the totality of an applicant's practice in real estate law, the applicant's Professional Development Report and references.
15. Applicants should not assume that completion of all of the enumerated practice concentration and experience requirements will automatically entitle them to certification as a specialist.
16. Applicants may be required to provide additional information to the Society facilitate the assessment process.
17. The Society may make discreet inquiries, as it deems appropriate, to determine the applicant's eligibility and suitability for certification as a specialist.

Last Revised: November 27, 2007