

## Question 9 – Reporting Letter

1. Do you always send a reporting letter to all clients?

### **Working Group (WG) comment:**

All respondents indicated that they send a reporting letter to all clients, whether they are a purchaser, a vendor or a lender. This is great to see. The reporting letter is an important step in the transaction. It provides the lawyer with one last opportunity to review the file and ensure that all that was to be done was completed properly and in accordance to the client's instructions. If a deficiency is found, it is easier to rectify when the details of the transaction are still fresh to everyone. The reporting letter provides a record of what was completed, the decisions made and issues raised with the clients and their direction or acknowledgment.

The reporting letter is also a marketing opportunity for you – you can advise the clients as to other types of services you offer, and encourage clients to update wills, etc.. It also provides a resource to be consulted by the client, which hopefully reduces the number of calls to the lawyer's office for additional copies or information.

The Rules of Professional Conduct (Rule 3.2-9.8) requires lawyers provide a final report on a mortgage transaction, together with the duplicate registered mortgage, to the lender within 60 days of the registration of the mortgage, or within such other time period as instructed by the lender. Although there is no such Rule for other clients, the Law Society of Ontario Residential Real Estate Transactions Practice Guidelines state: "The lawyer shall report in a prompt and clear manner to the client, as reasonably required throughout the transaction on an interim basis and in all cases at the end of a transaction". It is seen as part of a lawyer's retainer and therefore the file is not complete until a report is rendered.

1. On average, when do you deliver/send out your reporting letter?

### **WG comment:**

Some lawyers provide their report to the client on the closing day, with just over 40% of respondents indicated that they provide their report within 1 month of the closing. Another almost 40% indicated reporting within 3 months of the closing. The closer one can report to the client after the closing, the better for the reasons stated above. Also, since the invoice is usually sent with the report, it is a business principle that clients have a better view of the cost incurred the closer the receipt of the invoice is to the closing, especially if there is a positive outcome. Clients are happiest when they receive their report earlier. Late reports reflect poorly on you,

as clients can view this as you being unorganised or that they are not important to you.

2. Do you use the reporting letter in your file management software or have your own letter?

**WG comment:**

Over 55% of respondents indicated that they generate their reporting letters from the file management software they use, but with changes. As we must always be wary of the use of precedents, standard letters should be vetted to be tailored to the client's experience and transactions. This clearly demonstrates a good use of technology. Clients should understand, even if they did not see the work done for them, the issues resolved on their behalf and get confirmation of any discussions during the process.

3. Do you add specific content to address issues that arose during the transaction?

**WG comment:**

Over 80% of respondents indicated that they tailor their reporting letter to include file/client/transaction specific matters. As the reporting letter is often the only evidence that the client sees of what transpired in the transaction, it is important to ensure that it properly and fully reflects the lived experience. The standard precedent may note nothing or that a certain element progressed in the usual fashion, contrary to the actual experience (i.e. there were no survey issues, when in fact, there was full discussion about an encroachment).

4. How do you send your reporting letters to the purchaser/vendor?

**WG comment:**

Over 50% of respondents indicated they provide their reports in the traditional paper format by mail, but there is a strong contingent who hand the client their report when the client visits their offices, or who only provide reports via email. There is no required format for reporting letters, but with the increasing use and efficiency of electronic devices, we can assume that more and more clients might be preferring and demanding their reports electronically.

5. How do you send your reporting letters to the lender?

**WG comment:**

Interestingly, one third of respondents provided their reports in paper format via mail, one third in an electronic format only and one third provided both. We recognize that lender's, especially the big financial institutions, will increasingly require reports in electronic format.

6. Who signs the reporting letter?

**WG comment:**

Importantly all respondents indicated that a lawyer signed the reporting letter, whether the partner responsible for the file or the associate working on the file. Because of the opinions that the letter often contains or the nature of the information, only lawyers should sign reporting letters.

7. When do you bill for the work done on the transaction/file?

**WG comment:**

Over 40% of respondents indicated that they bill their real estate file on the day of closing. One quarter indicated that they bill when the reporting letter is sent. As the reporting letter is part of the file review exercise, it is a good practice discipline to bill at the same time the report is completed, after ensuring that all work is completed as required or promised. It is a great incentive to report early when all is fresh, with the carrot of issuing the bill and transferring the funds to pay it. Again, it is good business practice to bill as close to the event, as clients better appreciate and perceive the cost. The Law Society of Ontario's By-Law No. 9 dictates when a lawyer may withdraw funds from trust. Although it is silent on when to render a bill, it clearly stipulates that one cannot withdraw funds prior to incurring any disbursement or rendering an invoice.

8. What documents do you include in your report?

**WG comment:**

Most respondents include the vast majority of closing documents with the report. It is best to have a complete report, including a copy of all pertinent closing documents. The file that is retained can be less bulky and easier to eventually destroy if there are no originals that should be returned to the client. The complete report can also reduce the number of calls to your office by clients looking for

information or copies of documents, and eliminate the need to retrieve the file from storage in the future should questions arise.

9. How do you present your reporting letter to your client?

**WG comment:**

Over 50% of respondents indicated that their report was a letter with attachments. Nearly 20% provided only an electronic copy. Over 10% provided the reporting letter in a bound report. No format is required. A bound report will be easier to consult, less likely to be picked apart with parts being misplaced or lost and a convenient resource when next dealing with the property with all the necessary information at hand.

10. Where do you keep your copy of the reporting letter?

**WG comment:**

Slightly more than half of respondents indicated they store a paper format copy in the client's closed file, however almost 50% indicated they only retain an electronic copy. Again, there are no specific requirements, however, electronic copies are usually cheaper to store and easier to consult when needed.