

SCHEDULE I

Western Lawyers' Conveyancing Protocol

Solicitor's Opinion

To: *(Name of Lender)*

Date:

Re: **Mortgage Loan Number:**

Mortgage Amount:

Purchase Price:

The Parties:

Mortgagor(s): *(name and address)*

Guarantor(s): *(name and address)*

The Property:

Civic Address:

Legal Description:

I have complied with the Western Lawyers' Conveyancing Protocol (Manitoba) in the conduct of this transaction, and have acted in accordance with your instructions with respect to the real property mortgage described above. Subject to any qualifications noted below, which have been accepted by you, it is my opinion that the mortgage can now be funded and the funds disbursed.

Qualifications:

Issuing Lawyer:

Barrister and Solicitor
Member of the Law Society of Manitoba

Notes to Issuing Lawyer

Following are guidelines regarding the types of matters which ought, or ought not, to form the subject of a qualification to the Solicitor's Opinion.

1. Any known Survey Defects, however discovered, must be identified as qualifications to the Solicitor's Opinion. Such qualifications will define the limits of the Lawyer's responsibility (and that of the Lawyer's professional liability insurer) for actual losses sustained by the Mortgagee due to unknown Survey Defects. Following is an example of how such a qualification might be phrased:
 - (a) *The Building Location Certificate and Sketch prepared by Wilkes and Barnaby, Manitoba Land Surveyors, on March 17, 1986 disclosed an encroachment by the building on the mortgaged property onto the adjacent lands to the north by a maximum of .88 feet. An Easement Agreement, protecting that encroachment, was entered into between the previous owners of the affected lands, John David Ehlers and Margaret McWilliams, on April 23, 1986, and notice of that Agreement has been filed by way of caveat against title to the servient lands. A current building location certificate and sketch and zoning memorandum have not been obtained because, in my opinion, they are not required for your purposes and there are no Survey Defects, as defined in the Protocol, except as described above.*

2. Any aspect in which the Title or the Land fails to strictly comply with the Mortgagee's original instructions must be disclosed to the Mortgagee, prior to the issuance of the Solicitor's Opinion, and the Mortgagee's further instructions obtained. Each such defect and the Mortgagee's revised instructions must also be referenced in the qualifications to the Solicitor's Opinion. Following are illustrations of such qualifications:
 - (a) *Mortgage No. 1154716 in favour of First Community Loan Company secures the principal sum of \$25,000 and was registered against title to the mortgaged property on November 15, 1986. In accordance with your instructions, Mortgage No. 1154716 will continue to have priority over your mortgage.*

 - (b) *Caveat No. 1293302 was filed by Manitoba Hydro-Electric Board/Manitoba Telephone System ("MHEB/MTS") in relation to an Easement Agreement for underground power and telephone lines servicing the mortgaged property. The easement area described in Caveat No. 1293302 may include part of the mortgaged lands on which the garage is situate. MHEB/MTS have declined to postpone their Caveat No. 1293302 to your mortgage. You have accepted Caveat No. 1293302 as a permitted encumbrance which will have priority over your mortgage.*

 - (c) *The Guarantor of the Mortgage, Susan Forsythe, has no legal or beneficial interest in the mortgaged property or the mortgage loan proceeds. With your consent, Susan Forsythe has not obtained independent legal advice regarding the*

nature and effect of the Mortgage or her Guarantee. I express no opinion as to the legality, validity or binding effect of the Guarantee or its enforceability.

3. For Mortgagees, one of the main benefits of the Solicitor's Opinion is its simplicity and brevity. The Solicitor's Opinion is not to constitute a report of the various title and "off-title" investigations undertaken by the Lawyer (in the manner of the lengthy "solicitor's report" forms previously delivered to lenders). As much as possible, it is to distil the results of all those searches into the concise, "green-light signal" that "the mortgage can now be funded and the funds disbursed."

The Solicitor's Opinion should not detail encumbrances which, by the Mortgagee's instructions, are permitted, or items of non-compliance which the Lawyer will be discharging or otherwise rectifying in the course of the transaction. Examples of qualifications which should **not** be included in the Solicitor's Opinion are as follows:

- (a) Mortgage No. 1163767 in favour of Dominion Trust Company secures the principal sum of \$85,000.00, was registered on January 6, 1997, and will be paid out and discharged by the vendor from the sale proceeds.*
- (b) Caveat No. 1293304 was filed by Manitoba Hydro-Electric Board/Manitoba Telephone System on September 25, 1968 in relation to an Easement Agreement for underground power and telephone lines servicing the mortgaged property. In my opinion, Caveat No. 1293304 does not materially adversely affect your security.*
- (c) Unpaid realty taxes of \$232.46, as at September 30, 2000, are assessed against the mortgaged property, and will be paid by the vendor from the sale proceeds.*