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### 1. Obligations of a Mortgagee: C.A.

The Court of Appeal in [Neusitzer v. GFK Capital Base Corp. et al.](#), 2007 MBCA 128 (CanLII) considered the obligations of a mortgagee in the context of determining whether the lower court correctly ordered the defendant mortgagee to account for proceeds of sale of a property it had taken possession of by transfer from the defaulting mortgagor. The court stated that:

The appellants were unable to convince me that the trial judge made a palpable and overriding error in finding that the subsequent transfer of land was a continuance or progression of the initial mortgage transaction. On the strength of the reasoning in *Smith*, the transfer of land, in the circumstances of this case, was a "carefully devised" expedient that served to circumvent the Act and to shirk the mortgagee's responsibility to account to the mortgagor. That measure defeated the purpose and intent of the statutory procedural safeguards of the Act intended to protect mortgagors.

I hasten to add that nothing said here should be construed to imply that a mortgagor cannot enter into an agreement with a mortgagee for the transfer back of mortgaged property in consideration for an extinguishment of the mortgage debt. What makes this case so unique is the judicial finding that the mortgagee abused its position and took advantage of the mortgagor.

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### 2. E-Filing the GST New Housing Rebate Form

GST/HST New Housing Rebate Applications will now be accepted electronically by Canada Revenue Agency. The new [Form GST 190A](#) is an appendix to Form GST 190 and can be used "...to inform the Canada Revenue Agency (CRA) that the original Form GST190, GST/HST New Housing Rebate Application for Houses Purchased from a Builder, signed by the claimant, will be kept by the claimant's legal representative. This form can be used only for application type 1A or 1B, as indicated on Form GST190, where the builder paid or credited the rebate amount to the claimant." For more information, visit the [CRA website](#).

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### 3. Guide to Survey Descriptions

[The Property Registry](#) has recently posted a [Guide Book to Surveys - Descriptive Formats](#) on its website. The 54 page PDF booklet includes a glossary of abbreviations, tips on punctuation in legal descriptions of real property and of course, exceptions (and double exceptions). This would

be a useful download for support staff in a real estate practice.

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#### **4. National Charity Law Symposium**

The Canadian Bar Association is presenting the 2008 National [Charity Law Symposium](#) on May 7, 2008 in Toronto. For details and to register, contact the [Canadian Bar Association](#).

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#### **5. Predatory Lending in Canada**

The [Canadian Centre for Elder Law Studies](#) has just recently released a paper entitled [\*Study Paper on Predatory Lending Issues in Canada\*](#).

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