



# SUMMER NEWSLETTER

SUMMER '08



## HOGANWILLIG ATTORNEYS AT LAW

### In this issue...

Firm News	• 1-2
Buying & Selling FAQ's	• 1,3
Areas of Practice	• 2
Privacy Legal Issues	• 2-3
Upcoming Seminars	• 2
Newsworthy	• 3
Community Outreach	• 4
Contact Information	• 4

### FIRM NEWS

We are pleased to announce that we have expanded our staff of attorneys and legal professionals at HoganWillig over the past few months.

#### NELSON F. ZAKIA



We are honored to announce that attorney Nelson F. Zakia has joined HW where he will direct and manage our Matrimonial Law Department. Mr. Zakia, a

Fellow of the American Academy of Matrimonial Lawyers since 1983, has limited his area of practice to Matrimonial Law for 30 years.

Mr. Zakia has been active in the New York State and Erie County Bar Associations where he has lectured to various legal and related groups throughout the State of New York on a multitude of issues related to Family Law.

From 1996 to 2002, he served on the

Attorney Grievance Committee for the 8th Judicial District of the State of New York and was designated by the Appellate Division Fourth Department of the State of New York to serve as Chairman from 2000 to 2002.

For twelve consecutive years, Mr. Zakia has been named in the "Best Lawyers in America." In 2007, he was selected as one of the "Best Matrimonial Lawyers in Upstate New York," and in addition, he was honored as one of the "Top 50 Attorneys in the Buffalo Area."

#### THE ACQUISITION OF DONALD H. LISCHER, P.C.

We are pleased to announce the acquisition of the law offices of Donald H. Lischer, P.C. and welcome attorney Maurice Christian Doyle to our firm. Mr. Doyle joins our Real Estate Center, where he will supervise our new Foreclosure Department. We also welcome paralegals Susan Snyder and Mark Sebastian, formerly with Donald H. Lischer, P.C.

*Continued on page 2*

### BUYING OR SELLING REAL PROPERTY:

#### Frequently Asked Questions

While no two closings are identical, the elements are the same. The following questions are designed to help you understand the closing process from start to finish.

**1. What is a closing?** When a buyer and seller agree on the terms of a sale of real property, a contract is signed. The entire transaction is referred to as a closing since much of the work involved to reach that goal is done well ahead of the closing date.

**2. When do I apply for a mortgage?** You can apply for pre-approval before finding a house. This will allow you to complete the mortgage application and receive a quick response from your lender once you find a property. Once you have a written commitment, sign and return the documents to your lender so your loan will continue to be processed.

**3. Do I need Homeowner's Insurance?** In order to schedule your closing with your lender's attorney, you will need Homeowner's Insurance. You can begin checking into companies and coverages as soon as you have applied for your mortgage.

*Continued on page 3*

AREAS OF PRACTICE

- Bankruptcy & Financial Issues
- Corporate & Business Law
- Criminal & Traffic Law
- Disability Law
- Elder Law & Medicaid Planning
- Estate Administration & Taxation
- Estate Planning, Wills & Trusts
- Guardianships
- Matrimonial & Family Law
- Medical Malpractice
- Personal Injury
- Real Estate Law

FIRM NEWS, Cont.



**M. CHRIS DOYLE**  
Mr. Doyle will continue to focus his practice in real property law real property law and specifically foreclosures and litigated real property matters.



**JENNIFER FAY**  
HW welcomes attorney Jennifer Fay to our Matrimonial and Litigation Departments. Ms. Fay obtained her B.A. and J.D. from the State University of New York at Buffalo.



**CAROL FARRAR**  
HW is pleased to welcome attorney Carol Farrar. Ms. Farrar will focus her practice in our Corporate and Business Law Department.



**AMY LEET**  
HW welcomes Amy Leet as our Real Estate Center Coordinator. Ms. Leet has focused her career in real estate with a primary concentration in residential mortgage default servicing. ■

DEBT COLLECTION SERVICES

HoganWillig now offers complete professional debt collection services. Our focus is collecting judgments and delinquent accounts receivable through a personal, open and ethical approach which results in fast turnaround and sustainable returns, improving our clients' bottom line.

Through personal service and expert account handling by experienced and knowledgeable professionals, we are able to provide full-service collections through all phases of delinquency, including a seamless transition into litigation when necessary. All phases of the recovery process are completed under one roof, allowing for reduced fees and faster turnaround.

For more information, please contact Gloria or Cindy at 716-636-7600. ■

UPCOMING SEMINARS

FREE SEMINARS

Please RSVP to Jessica @ 636-7600

“Senior Focus”

(Estate Planning, Funeral Pre-Planning and Senior Living)

- Thurs., August 28 @ 6 p.m.
- @ ElderWood Crestwood Commons, Wheatfield

LAW LINE: 716-845-7044

Sponsored by the Bar Association of Erie County  
(An educational call-in series that airs on WNED-AM 970)

- Sat., August 16 from 10 - 10:30 a.m.  
Topic: Bail • Featuring: Jackie Wanemaker, Esq.
- Sat., August 23 from 10 - 10:30 a.m.  
Topic: Foreclosures • Featuring: Chris Doyle, Esq.

If you would like to schedule a seminar on a topic of your choosing, please contact Jessica @ 716-636-7600.

PRIVACY LEGAL ISSUES

FOIL Generally

The Freedom of Information Law (“FOIL”) was enacted to “make available to the public documents generated by and in the possession of government unless a compelling reason requires their confidentiality.”

Public Access to Law Enforcement Records

Generally, the public can access law enforcement records under FOIL and only be restricted when disclosure of such records would interfere with investigations, judicial proceedings, deprive a person of the right to a fair trial, identify a confidential source, disclose confidential information relating to a criminal investigation or reveal non-routine criminal investigative techniques.

FOIL requests must be made in writing. The agency will respond within 5 business days with acknowledgment of the request and a statement of when (and if) the request will be granted.

Information on filing a FOIL request with the NYS Police can be found at: [www.troopers.state.ny.us/Contact\\_Us/FOIL](http://www.troopers.state.ny.us/Contact_Us/FOIL)

Public Access to DMV Records

Both federal and state laws regulate the privacy of personal information in Department of Motor Vehicle records. The federal Driver's Privacy Protection Act (DPPA)

PRIVACY LEGAL ISSUES, Cont.

restricts the public's access to personal information in DMV records. DPPA also restricts the use of a license plate number or VIN to search for the name of a vehicle owner, the use of the name of a driver to find the mailing address of the driver and a search for the names and the addresses of the previous owners of a vehicle.

The following records are available by using the MV-15 form through the DMV and do not require a FOIL request, such as: Driver License Applications and Records; Vehicle Registration and Title Records; Conviction Certificates; Driver License Suspension or Revocation Order, and more.

Additional DMV records are available through FOIL, with some exceptions. Like law enforcement records, DMV records may be withheld if the disclosure would jeopardize an investigation, the right to a fair trial, confidential sources or investigative techniques. They may also be withheld if the disclosure would jeopardize trade secrets, personal privacy, contract awards, or collective bargaining negotiations or would endanger the life or safety of any person.

If you have any questions or would like additional information on the above material, please contact attorney Jackie Wanemaker at 716-636-7600. ■

Please be advised that the email addresses for HoganWillig have changed effective immediately. All email addresses that end in HOGANANDWILLIG.COM have been discontinued. Please change your records to reflect that all email addresses now end in HOGANWILLIG.COM.

BUYING OR SELLING REAL PROPERTY:

Frequently Asked Questions, Cont.

4. What is the Search & Survey?

The search (Abstract of Title) is a record of all the recorded documents in the County Clerk's office that relate to the land your house is on. The survey is a small map of the land showing all structures. These two items are called the “title documents” and are necessary to prepare title insurance for the new lender and owner.

5. Do I need a home inspection?

A home inspection will alert you to potential problems in the structure, construction and mechanical systems of your house. If problems are discovered, you may be able to re-negotiate your contract or cancel it.

6. What if I find something wrong with the property after closing?

Absent fraud, New York is a “buyer beware” state, and after closing, any repairs or replacements become the new owner's responsibility.

7. Do I have to be present at closing?

If you are purchasing with a mortgage, you will need to be present to sign all of the

closing documents. Some lenders may allow you to designate a Power of Attorney to sign on your behalf.

**8. When and where will my closing take place?** Ordinarily, the closing location is decided by your lender's attorney. In New York, the closing date in a contract can be seen only as a target date.

9. Who pays the closing costs?

Allocation of closing costs is determined by the contract. Frequently the seller pays the costs related to the transfer of the property, and the buyer pays those costs associated with his/her mortgage.

10. How much money do I need at closing?

Generally, a buyer will need the balance of the purchase price, their share of prorated property taxes and the lender's closing costs. These will be calculated by the lender's attorney close to closing date. Your attorney will tell you how the checks need to be broken down and to whom they should be made payable. ■

NEWSWORTHY

On June 30, 2008, HoganWillig's dedicated medical malpractice team obtained a substantial verdict on behalf of our client. The Niagara County jury awarded over \$9 million to our client's family after determining that a failure to timely diagnose breast cancer led to her death.

HoganWillig commenced the action after the 2004 death of our client. The two week trial included testimony from five physicians in addition to the defendant. Ultimately, after two hours of deliberation, the jury determined that our client was deprived of a chance for a cure of the disease. It is believed to be one of the largest malpractice verdicts in Niagara County.

## CONTACT INFORMATION

One John James Audubon Parkway  
Amherst, New York 14228  
Main Office: 716.636.7600 • 800.636.5255 (Toll Free)  
Real Estate Office: 716.688.1991 • 866.735.6968 (Toll Free)  
Lockport Office: 716.434.7766 • 770 Davison Rd.  
Buffalo Office: 716.332.3442 • 155 Summer St.  
Office Hours: Mon. - Fri.: 8am - 6pm, Sat. & Evenings by Appt.  
Email: [questionsfor@hoganwillig.com](mailto:questionsfor@hoganwillig.com)

[www.hoganwillig.com](http://www.hoganwillig.com)



AMHERST OFFICE  
716.636.7600

LOCKPORT OFFICE  
716.434.7766

BUFFALO OFFICE  
716.332.3442



**HOGANWILLIG**  
ATTORNEYS AT LAW

ONE JOHN JAMES AUDUBON PKWY  
AMHERST, NY 14228-1169

PRESORTED  
STANDARD  
U.S. POSTAGE  
PAID  
BUFFALO, NY  
MAILING  
ADVANTAGES

## COMMUNITY OUTREACH

HoganWillig's Community Outreach Program consists of presentations that are offered free to the community, including educational institutions and local businesses, addressing certain legal topics and issues that we have found to be of concern to many people. We have put together low-key, down-to-earth presentations using everyday, understandable language to explain how the

various legal concepts and/or concerns may impact someone's life. Topics range from *The Top 10 Concerns of Retirees* and *Avoid Becoming the Victim of Elder Fraud* to presentations geared towards high school students highlighting *The Implications of Underage Alcohol Use*. For more information on our Community Outreach Program, please contact Jessica at 716-636-7600.



This newsletter is intended to provide general information and does not constitute legal advice. Please consult with an attorney to see how this information may apply to you and your specific circumstances.

**NOTE:** If you wish to have your name removed from our mailing list please contact Jessica at 716-636-7600, or email [jhulbert@hoganwillig.com](mailto:jhulbert@hoganwillig.com).