



Ontario

Ministry of
Consumer and
Commercial
Relations

Property
Rights
Division

Legal
and
Surveys
Standards
Branch

BULLETIN NO. 78037

DATE: July 7, 1978

TO:
ALL LAND REGISTRARS

REGULATION UNDER THE LAND
TRANSFER TAX ACT, 1974

FINAL ORDERS OF FORECLOSURE

Ontario Regulation 428/78 which was filed June 7, 1978, and which appears in the Ontario Gazette of June 24, 1978, deals with the calculation of the value of the consideration in cases of final orders of foreclosure. The regulation provides that, in determining the value of the consideration, there shall be included in addition to any amount described in any of the subclauses (i) to (iv) of clause (m) of section 1(1) of the Act, the value of any mortgage that is both subsequent in priority to the mortgage in respect of which the final order of foreclosure is made, and held by the foreclosing mortgagee. However, the value of any subsequent mortgage is not to be added to the value of the consideration, if such inclusion would increase the value of the consideration to an amount greater than the fair market value of the land.

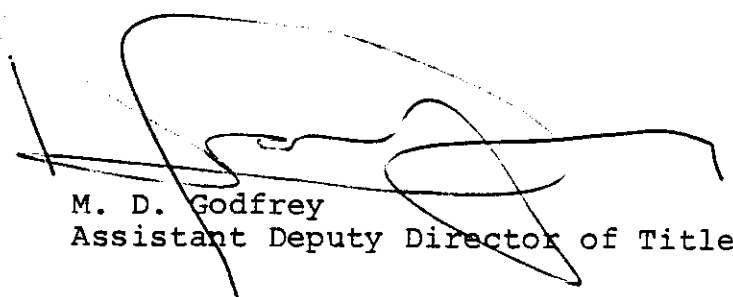
As a result of the above, a foreclosing mortgagee must now include in determining the value of the consideration for land transfer tax purposes the lesser of -

1. (a) the value of all prior encumbrances;
(b) the amount owing on the mortgage being foreclosed (including principal, interest and all other costs and expenses other than municipal taxes); and
(c) the value of any subsequent mortgage on the property that the foreclosing mortgagee also holds;

- or -

2. the fair market value of the land.

This Bulletin replaces paragraph 4 of Bulletin 77018.


M. D. Godfrey
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