

Assyst aids in automating real estate deals

Emergis Inc. has wooed away Toronto and B.C. real estate practitioners to help them on a national roll out of technology that will connect lawyers and mortgage lenders. It has the potential to keep lawyers entrenched in real estate deals and better manage costs.

Electronic searching and registration are now mainstays of residential real estate practice. But there's a gap, says Alan Silverstein, a prominent Toronto real estate practitioner who is now director of national engagements for Emergis Inc.

"Over the last decade, processing real estate transactions has become increasingly automated, but one area that has never been automated as much as it could be is the mortgage transaction component," Silverstein says.

Emergis saw the gap as an opportunity. The information technology company focuses on solutions that automate transactions and the secure exchange of information.

In 2002, Emergis launched a program that electronically connected Quebec's notaries and mortgage lenders who had signed up for the program. Four years later, Emergis has achieved 80-per-cent penetration among notaries.

"Our feeling is that if we get another five or six per cent, we'll have saturated the market, because there are always a minority who resist automation," Silverstein says.

Desjardins and National Bank have been longtime partners, and Emergis has processed 500,000 transactions in Quebec since its launch.

"There will be more national banks signing on in the next few months," he says.

With the national banks coming on board, Emergis is poised to expand its program, dubbed Assyst Real Estate, to British Columbia towards the end of 2006 and to Ontario early next year. The name is part of a re-branding of Emergis' products under the "Assyst" and "Assure" banners.

Silverstein and Brett Horton, a B.C. lawyer who has signed on as Assyst Real Estate's western Canada director, will spearhead the expansion.

"Assyst Real Estate closes a mortgage transaction totally off the lawyer's desktop," Silverstein says. "In a market



where fees can't go higher, doing this will boost lawyers' bottom lines because it creates efficiencies, holds down costs, and reduces the waste that's involved in the transaction."

While lawyers may intuitively regard the product as technology, Silverstein says it's as much process as it is technology.

"The point is that the partner lenders have agreed to a way of doing things, a streamlined version of what's been done in the past but which has the advantage of eliminating the movement and collection of paper."

Silverstein points out that Assyst Real Estate is not an intermediary.

"It's a seamless pipeline over which instructions and information travel," he says. "It's the last missing piece in the process of real estate practice automation."

Instructions and information arrive on the lawyer's desktop electronically, with key elements not only pre-populated but locked into the documents.

"The pre-populated components can't be changed on the lawyer's end, so there can't be any mistakes there," Silverstein says. "This minimizes the possibility of inputting errors and fraud."

All the documents a lawyer requires, such as standard charge terms and schedules, are available on the Assyst Real Estate website. Again, this minimizes risk by reducing the possibility of error as a result of downloading the wrong documents.

Participating lenders have also agreed to a 48-hour pre-closing freeze on transaction terms.

In other words, the program will allow no changes in transaction terms on the lawyer's end within that time period.

"For example, if the client decides he or she is able to put down or needs more money and there's some change in the amount of the mortgage, the arrangements will have to take place between the lender and the client," Silverstein says. "The lender will have to cancel the instructions and initiate a new transaction."

In such cases, the additional work involved for the lawyer will be minimal. "It's not as if the staff has to do a whole new set of documents," Silverstein points out. "Most of the work, like the searches, will still be valid and the documents will still be pre-populated and locked in."

Assyst Real Estate also streamlines reporting. The system uses a standard form report, which can be delivered online as soon as the lawyer inserts the

prised of notary and bank representatives to iron out glitches and develop enhancements. The company will operate similarly throughout Canada.

"We're not there to tell lawyers and banks how to do their business," Silverstein says. "We want input."

Emergis has also been careful to keep regulators up-to-date. "Law societies don't get involved in endorsing products, but they do set standards for the practise of law," Silverstein says.

So, for example, proposed changes to Ontario's Rules of Professional Conduct, which require lawyers to report on mort-

gage transactions within 60 or 90 days (the final version of the changes has not yet been promulgated), will fit nicely with the seamless reporting featured in Assyst Real Estate. "We don't anticipate any problems with law society rules," he says.

Law societies may have more to say, however, if Assyst Real Estate evolves to the point where it is handling trust monies to and from lawyers' accounts. Emergis moved 450 million transactions worth \$60 billion through its systems in 2005. The company also estimates that the aggregated value of all transactions that it processes is approximately \$200 billion, including those transactions (such as Assyst Real Estate deals) where Emergis does not itself handle the money.

"We would love to see funding, closing, registration, and moving money keep electronic pace with one another," Silverstein says. That's for another day, however, because quite apart from law society concerns about the movement of money to and from lawyers' office, there are regulatory issues and matters to be resolved with the Canadian Bankers Association.

Which is not to say that the evolution is stalled. Recently, Desjardins began using Assyst Real Estate as a platform for both its commercial and industrial mortgages.

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— ALAN SILVERSTEIN, EMERGIS INC.

mortgage's registration number.

"There's no mailing, no photocopying, no couriering," Silverstein says. "The opinion becomes part of the automated process."

Do Process Software Ltd., a well-known developer of practice-specific law office software with installations in 3,000 offices, will house the Emergis pipeline in Ontario. "Do Process is a great launching pad for us in Ontario," Silverstein says. "But that doesn't mean that lawyers will need Do Process to use Assyst Real Estate. They can use other similar programs or simply access Assyst through their standalone desktop shortcut."

In Quebec, Emergis resorts to user groups and a steering committee com-

National resale housing activity is expected to reach 483,265 units in 2006, up 0.1 per cent. Expect a 4.8 per cent drop in 2007.

— CANADIAN REAL ESTATE ASSOCIATION

Propertyshop.ca expands legal role in real estate game

“Real estate lawyers must take advantage of the fact that the traditional, monopolistic methods of buying and selling real estate are being threatened, primarily by the Internet,” says Bob Aaron of Aaron & Aaron, a prominent Toronto real estate practitioner and newspaper columnist.

That’s why Aaron joined Propertyshop.ca early in 2006. Propertyshop.ca is a concept modeled on the successful solicitor property centres in Scotland. The concept takes advantage of the growing trend to sale-by-owner in the residential real estate market.

Propertyshop.ca provides a full-fledged marketing system that links purchasers and vendors online. The group’s lawn signs indicate the asking price and provide an identification number that allows potential buyers to view the property online.

Scott Grainger, a 38-year-old, 1995 call who is a general practitioner in Elmira, Ont., has been a Propertyshop.ca member for two years after spotting a story on the venture in *Canadian Lawyer*. Propertyshop.ca transactions now comprise 20 per cent of his billings.

“When I’m approached by someone who wants to sell their home, I visit them, photograph the home, get the survey and the tax information, go through all the due diligence disclosure issues, and explain the notion of latent and patent defects as well as zoning,” he says.

Back at his office, Grainger composes a written description of the property that goes on the website.

“The client has to show the property, but our system allows our client to pre-screen visitors,” he says. “If the clients get a call, they make sure that the potential buyer has seen the website first.”

When the offer arrives, it soon ends up on Grainger’s desk — in contrast with the traditional experience where lawyers first see agreements of purchase and sale in residential transactions after they are executed, giving them little, if any, opportunity to negotiate its terms.

“The creativity in most real estate transactions happens at the beginning but most lawyers can’t touch the agreement after the agent sets it up,” Grainger says. “Propertyshop.ca lets us in at the creative stage and is a real boost to our professional self-esteem.”

The fees charged to owners are well beyond what a lawyer would earn doing business the traditional way.

“In most cases, legal fees for a sale are five or six times what conventional fees are, but still only about one-third of what it would cost to pay both a real estate agent and a lawyer,” says Mike Forcier, Propertyshop.ca’s president and co-founder.

Propertyshop.ca, which launched in 2003 with seven lawyer members, now has 33 members throughout the province. “Our members are starting to make some real money,” Forcier says.

Recently, a group of lawyers injected capital into the company, giving it the latitude to embark on an enhanced marketing program. “In fact, we’ve had interest from as far away as Alberta, Saskatchewan, and Newfoundland,” Forcier says.

Grainger, who was thinking of quitting private practice for a career as a Crown attorney when he happened upon Propertyshop.ca, says it’s all for the good.

“Our message needs to get out among the lawyers and the public, because the way things are, a lot of real estate lawyers are digging ditches and not coming up for air,” he says. **Q1**