

## The Witness Requirement

Generally, documents used by registrants require that the signatures of all parties be witnessed. The witness can be any person who is over the age of 18 and who does not lack mental capacity such that he or she is incapable of signing legal documents.

Section 58 of *The Real Estate Act* requires that all offers, counter offers and amendments be signed by the parties “in the presence of a witness”. This means that a person who signs these documents as a witness must be physically present at the time the document is signed by the buyer or seller. Therefore, with respect to these specific documents, registrants should not sign as a witness when a client returns a document that he or she has already signed.

The same holds true when a client is signing documents electronically. A registrant who sends an offer, counter offer or amendment to a client via *DocuSign*, *Authentisign* or any other electronic signature system, cannot sign the document as a witness when it is returned after having been signed by the client. The person signing as a witness must be physically present with the client when he or she affixes an electronic signature to the document. Many electronic signature programs provide the option of having a witness, who is physically present with the party, sign the document electronically.

If you have any questions about obtaining electronic witness signatures, you should contact your electronic signature system provider.