

The Regulator December 2010



TO: Real Estate Industry Members and Other Stakeholders

FROM: The Real Estate Council of Alberta and the Alberta Real Estate Association

RE: Delivery of Licensing Education Transfers from AREA to RECA

A multi-year Memorandum of Understanding between the Real Estate Council of Alberta (RECA) and the Alberta Real Estate Association (AREA) is coming to a conclusion. This agreement provides for AREA to administer, on behalf of RECA, Alberta's real estate associate and brokers licensing programs.

Background:

When the Real Estate Council of Alberta (RECA) was established in 1996, its mandate included responsibility for licensing and re-licensing education. At the time, RECA was not in a position to assume all aspects of this responsibility and looked to AREA to continue to participate in curriculum development and course registration and administration.

In 2008, RECA was able to assume responsibility for all aspects of its Re-licensing Education Program. Now, RECA and AREA have agreed it is an appropriate time for RECA to assume responsibility for the development and delivery of the real estate licensing education programs.

Current Situation:

RECA's Memorandum of Understanding with AREA officially ends December 31, 2010. However, both parties have agreed to extend the agreement to allow for a staged transition, as follows:

Licensing Course	Timing of Transition to RECA
Introduction to a Career in Real Estate (Phase 1)	January, 2011
Fundamentals of Real Estate (Phase 2)	October, 2011
Introduction to a Career in Residential Real Estate (Phase 3)	May, 2012
Introduction to a Career in Commercial (Phase 3)	January, 2013
Introduction to a Career in Rural (Phase 3)	June 2013
Real Estate Office Management and Brokerage (REBP)	October, 2011

Next Steps:

The timing of the transitions reflects when RECA anticipates it will be ready to deliver new online education material for each course.

On AREA's part, the transition will allow for a shift in focus. While RECA will continue to ensure REALTORS® stay current on industry rules and regulations and the *Real Estate Act* itself through relicensing education, AREA will expand the range of professional development opportunities available to REALTORS®. These offerings will range from quick, direct-to-your-inbox tutorials on prevalent practice issues to an array of course offerings developed in-house or accessed through licensing agreements with REBAC and other course providers.

Both RECA and AREA recognize the importance of working together to support Alberta REALTORS®. A key aspect of this relationship is the contributions each organization makes, through input and feedback, to the plans and activities of the other organization. To this end, RECA and AREA are collaborating to identify areas of business the other organization should contribute to and when and how to best deliver this input to achieve the most value.

Both organizations look forward to enhancing their working relationship and their service to the Alberta real estate industry. For more information on RECA's education programs and its "Core Values" go to: <http://www.reca.ca/reca-education/splash/splash.htm>

BUILDING COST REPLACEMENT APPRAISALS FOR INSURANCE PURPOSES - ACTING AS A REAL ESTATE APPRAISER?

Summary: Individuals who estimate replacement costs of buildings for insurance purposes do not act as real estate appraisers under the *Real Estate Act*. No authorization from the Real Estate Council of Alberta is required for such activity.

Under the *Real Estate Act (Act)*, the purpose of a real estate appraisal report is irrelevant to the question of whether a person requires an authorization from the Real Estate Council of Alberta to act as a "real estate appraiser". An authorization to act as a "real estate appraiser" as defined in the *Act* is required whatever the purpose of the real estate appraisal if the person producing the document acts as a "real estate appraiser".

Under the *Act* s. 1(1)(u) real estate appraiser means

- (i) a person who, for consideration or other compensation
 - (A) estimates the defined value of an identified interest in real estate,
 - (B) signs a real estate appraisal report that makes an estimate referred to in paragraph (A) that is prepared by another person, and accepts responsibility for the report, or
 - (C) provides real estate appraisal consulting services within the meaning of the regulations,

or

- (i) a person who holds himself or herself out as a person referred to in subclause (i);

Under the *Act* s. 1(1)(u.1) real estate means

- (i) real property,
- (ii) leasehold property, or
- (iii),(iv) repealed 2007 c39 s2,
- (v) a portable dwelling, other than a holiday trailer or recreational vehicle wholly or mainly used for recreational purposes, that
 - (A) is designed for use as and is used as a residence,
 - (B) is mounted on or otherwise attached to its own chassis and running gear,
 - (C) is capable of being transported on its own chassis and running gear by towing or other means, and
 - (D) is situated on a site that is used or intended to be used, or that has been represented by the owner of the site as being intended to be used, for residential purposes;

Black's Law Dictionary defines "real property" as land and anything growing on, attached to, or erected. Black's Law Dictionary defines an "interest in real estate" as a fee simple, life estate or other legal interest in land. Therefore, a building affixed to land is not an interest in real estate.

An “estimate of the defined value of an identified interest in real estate” as set out in the *Act* is generally understood to mean an estimate of the value of all of the legal interest in the land and improvements affixed to the land including a house, buildings, etc.

In accordance with the meanings of "real estate" and “real estate appraiser” in the *Act*, appraisal activities falling within the scope of the *Act* must include an appraisal of real estate, including real property, and in the case of real property the appraisal must include the land upon which buildings are situate.

If an assessment of the replacement cost of building(s) ie. improvements to land, for insurance purposes is performed separate and apart from an assessment of the land upon which the building(s) are situate, such an appraisal undertaking is not an estimate of the value of an interest in real estate but is an estimate of the replacement costs of the building. This does not constitute acting as a real estate appraiser under the *Act*. No authorization is required for such activity.

News Bytes

Fraud Alert! Attempts to Cash Forged Trust Cheques

The Real Estate Council of Alberta (RECA) has learned that an individual or group of individuals has been attempting to cash forged trust cheques in Calgary.

Brokers and their administration staff are encouraged to be vigilant with their trust account information and documents, and to contact their bank immediately if any forged cheques are identified.

Conducting monthly trust account reconciliations as required by Section 86 of the Real Estate Act Rules is an easy method for identifying unauthorized disbursements.

If your trust account has been targeted, trust funds may be moved to a new trust account, and there is no need to notify the parties on whose behalf the trust funds are being held.

You can report the closing of a targeted trust account and the opening of a replacement account to RECA using RECA Online.

New Investigations Guide for Industry Members Available

The Real Estate Council of Alberta (RECA) is pleased to announce the updated Guide to Investigations for Industry Members, a comprehensive reference for industry members who are involved in a RECA investigation.

The new guide includes the Voluntary Broker Resolution Process, which is a new method of resolving minor complaints. The process is a type of complaint resolution process managed by the broker. If the complaint is resolved using this process, the complaint is withdrawn and the investigation is terminated. For more information please review the Guide to Investigations for Industry Members.

RECA Holiday Hours

Fri. Dec. 24 - 8:30 a.m. to 12 p.m.

Mon. Dec. 27 - Closed

Tues. Dec. 28 - Closed

Wed. Dec. 29 - 8:30 a.m. to 5 p.m.

Thurs. Dec. 30 - 8:30 a.m. to 5 p.m.

Fri. Dec. 31 - 8:30 a.m. to 12 p.m.

Mon. Jan. 3 - Closed

Council Members 2010-2011

BILL BUTERMAN

Appointed from non-AREA industry members

KEVIN CLARK

Appointed from residential real estate industry members

CINDY DUBRAY

Appointed from the property management sector

GORDON GRAYDON

Appointed from the public

CONNIE LECLAIR

Appointed from the public

WAYNE MCALISTER, CHAIR-ELECT

Appointed from the Calgary Real Estate Board

KEN MCCOY

Appointed from the Edmonton Real Estate Board

WENDY ROBSON

Appointed from boards outside of Calgary and Edmonton

RALPH SALOMONS, PAST CHAIR

Appointed from commercial real estate sector

CHERYL SCHINDEL

Appointed from boards outside of Calgary and Edmonton

GARY SIEGLE

Appointed from the mortgage brokerage sector

ROBERT TELFORD, CHAIR

Appointed from the real estate appraisal sector

Contact RECA

Case Summaries is published by the Real Estate Council of Alberta. Please forward your comments and suggestions to communications@reca.ca.

Executive Director - Bob Myroniuk

Director of Audit and Investigations - Joseph Fernandez

Director of Corporate Services – Dale Cawsey

Director of Education – Kirk Bacon

Director of Industry Standards – Charles Stevenson