

The Regulator January 2012

Coming Soon! Practice Reviews for Appraisers

Since its inception in 1996, the Real Estate Council of Alberta has had a comprehensive Audit program. The primary purpose of these audits (practice reviews) is educational in nature – not enforcement. As part of this program, RECA auditors visit brokerages across the province and thoroughly review, among other things, trust accounts and brokerage accounting practices, licensing records, trade records, mortgage disclosure documents and agency disclosure forms. The Audit program, now referred to as the Trust Assurance and Practice Review program, will be expanding later this month to include practice reviews (previously referred to as audits) of real estate appraiser and candidate books and records.

Real estate appraisers and candidates are in a unique position within Alberta's real estate industry in that they do not hold trust funds and they do not work under the supervision or direction of a broker. That being said, real estate candidates and appraisers are required to maintain adequate books and records, and comply with all aspects of the *Real Estate Act* and Rules, and RECA Trust Assurance and Practice Review Officers will begin practice reviews of real estate candidates and appraisers later this month.

At the outset, real estate candidates and appraisers will be selected for a practice review at random. Results of RECA practice reviews are kept confidential between RECA and the real estate appraiser/candidate. If the appraiser or candidate wishes to involve the company for which they work in the process, they are allowed to do so – but RECA places no requirement on them to do so. It is important to note it is the books and records of the individual candidate or appraiser that are being reviewed, not records of the larger appraisal firm or company for which the individual works.

When conducting a practice review of a real estate appraiser, RECA's Trust Assurance and Practice Review Officer may review any applicable licensing documentation and a sample of appraisal assignments for detailed testing including a review of:

1. the service agreement
2. work files and notes
3. the signed appraisal report
4. the details of the remuneration received
5. data supporting adjustment entries

The process as a whole is not about sanctions – but rather is meant as an educational, cooperative process between RECA and the candidate/appraiser. There are only three circumstances under which the Trust Assurance and Practice Review Officer would refer something from a practice review for a professional conduct review (previously referred to as an investigation). These include:

1. a belief that there has been unauthorized practice
2. evidence of fraud – intentional misconduct
3. when there has been multiple warnings specific to certain behaviour in the past that has continued after the warnings

At the conclusion of a RECA practice review, the Trust Assurance and Practice Review Officer will go over the results of the review with the appraiser in a productive, constructive question-and-answer style session. This review is meant to provide value and workable solutions/constructive feedback to the real estate appraiser. When it is possible, and appropriate, to do so, the Trust Assurance and Practice Review Officer will provide alternatives and possible strategies to prevent future problems and may interpret relevant sections of the *Real Estate Act* and Rules. The Trust Assurance and Practice Review Officer will remain available to the appraiser for ongoing support should the appraiser have questions in the future.

RECA's Audit program has met with considerable positive feedback in the past. RECA conducts surveys of all the brokers it audits shortly after the completion of the audit. Highlights from the audit surveys conducted during the 2010-2011 fiscal year include (additional highlights were provided in the December 2011 Regulator newsletter):

- 97.3% of brokers reported the auditors provided clear and constructive explanations at the end of the audit.
- 94.6% of broker stated the auditors provided positive recommendations or strategies to prevent future problems.
- 91.0% of brokers stated the audit helped them identify and resolve potential problems.
- 85.5% of brokers stated the audit helped them develop more effective record keeping and administrative procedures.

RECA is confident that real estate candidates and appraisers will have similar feedback to provide once they have gone through a practice review.

Estimating Market Value

Summary: A real estate broker can estimate the market value of a property in the course of trading in real estate and providing services to their clients; however, they must not perform a real estate appraisal unless they have an authorization as an appraiser from the Real Estate Council of Alberta. [See: Real Estate Act, s.1(1)(u.1)(i), s.2(4)(c), s.17]

Note: For the purposes of this Information Bulletin, and where the context permits, the term "real estate broker" includes all industry members authorized to trade in real estate by the Real Estate Council of Alberta including a brokerage, broker, associate broker and associate.

The Real Estate Council of Alberta protects the public interest by regulating industry professionals in the real estate, mortgage brokerage, and real estate appraisal industries under the *Real Estate Act*. Real estate appraisers are qualified by education, training, and experience to provide professional independent opinions of value for various types of property based upon an interpretation of facts and judgments as of a stated date.

Real estate brokers often provide a comparable market analysis or estimate of market value in the course of trading in real estate, but it is important to clearly understand the difference in appraisal and real estate broker roles and responsibilities when estimating the value of a property.

The *Real Estate Act* requires anyone who, for consideration or other compensation, “estimates the defined value of an identified interest in real estate” [s.1(1) (u.1) (i)] to be authorized as a real estate appraiser by the Real Estate Council of Alberta. Section 2(4)(c) of the *Real Estate Act* exempts anyone authorized as a real estate broker from the requirement to be authorized as a real estate appraiser when they estimate value for the purposes of a trade in real estate.

The Real Estate Council of Alberta interprets “for the purposes of a trade in real estate” to include a prospective (potential) or actual trade. Real estate associates, associate brokers, and brokers may provide a market analysis or price estimate, either as part of their service package or as an independent item for which a fee is charged, if they clearly disclose in writing:

1. The market analysis or price estimate was prepared solely for the client, or his or her designee, for the purpose and function stated in this report and is not intended for subsequent use. The purpose or function may include providing information:
 - (a) to a potential client for the purposes of entering into a seller brokerage agreement (listing);
 - (b) to a potential client for the purposes of entering into a buyer or tenant brokerage agreement;
 - (c) to assist a seller or landlord in the sale or lease of their property under a seller brokerage (listing) agreement;
 - (d) to assist a buyer or tenant in the purchase or lease of a property under a buyer/tenant brokerage agreement;
 - (e) providing a management report for a client; or,
 - (f) providing a comparative market analysis to a relocation company.
2. The market analysis or estimate shall be a range of value.
3. The market analysis or estimate was not prepared by an individual authorized as a real estate appraiser by the Real Estate Council of Alberta.
4. The market analysis or estimate is not an appraisal and should not be referred to, construed as, or relied upon as an appraisal and does not comply with commonly accepted professional appraisal standards

Note that a real estate industry member cannot provide an opinion of value that will be used for financing purposes.

Any comparative market analysis or estimate prepared by a real estate industry member **should** include the following language in bold print in a prominent location:

“This comparative market analysis or estimate was prepared solely for the client for the purpose or function indicated in the report and is not intended for subsequent use. It was not prepared by an authorized real estate appraiser and is not a real estate appraisal. It does not comply with the standards of professional appraisal practice and should not be used in lieu of an appraisal performed by an authorized appraiser.”

Self-Regulation Consultation: Time is Running Out!

Time is running out if you want to provide feedback as part of the Real Estate Council of Alberta’s self-regulation consultation process. Have you had your say yet?

If you have not been able to attend a RECA Self-Regulation Town Hall meeting, which have been occurring across the province since late November, or you simply want to make sure RECA receives your feedback in writing, we encourage you to complete RECA’s online survey about self-regulation and right touch regulation.

You may also want to check out the Twitter chat RECA is hosting on Thursday, January 26, 2012 from 10-11 a.m. MST. To join the conversation, go to <http://tweetchat.com/room/RECAchat> on the scheduled day/time. The hashtag for the discussion is #RECAchat and we encourage you to follow along and join the conversation.

Thank you for taking the time to become involved in this important project. Thank you for being part of the evolution of our industry.

NEWS BYTES

Re-Licensing Education Program: Real Estate Update 2011-2012

Don’t leave completion of your re-licensing education until the last minute this year! All real estate industry members must complete the Real Estate Update 2011-2012 course before the September 30, 2012 renewal deadline. The course is available now, online via RECA Education.

Online enrolment is easy.

- Contact your broker for your RECA ID.
- Go to www.reca.ca and click on RECA Education.
- Click on Real Estate and then Real Estate Update 2011-2012.

Learn and go. When you log off, your progress is saved until you return.

RECA Education – Any Time, Any Place, Any Pace

New Appraisal Information Bulletins and Consumer Information Articles

The Real Estate Council of Alberta (RECA) has identified a need to have more information resources available for real estate appraisers – and for consumers about real estate appraisal practice. As a result, two new Information Bulletins have now been posted to the RECA website, along with two new consumer information articles about real estate appraisal practice.

These documents have been reviewed by the Real Estate Appraisers' Advisory Committee.

Information Bulletins

[Responsibilities – Real Estate Appraisers](#)

[Prohibitions - Real Estate Appraisers](#)

Consumer Information Articles

[Choosing a Real Estate Appraiser](#)

[Using the Services of a Real Estate Appraiser](#)

Keep your eye out for more appraiser information and resources in the coming months.

Case Summaries – Did You Know?

On the first and third working Mondays of each month, Alberta real estate industry professionals have come to expect an email from the Real Estate Council of Alberta (RECA) with the most recent Case Summaries. What some of those professionals might not know is that all RECA disciplinary action is published – in full – on the RECA website in addition to the summaries that are distributed via email. If you have questions about a disciplinary proceeding that haven't been answered adequately via the summary, RECA encourages you to visit the Disciplinary Action section of its website for complete disciplinary decisions. Also available on the RECA website are RECA's Publication Guidelines.

Council Members 2011-2012

BILL BUTERMAN, Chair Elect

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

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

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, Past 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
Deputy Executive Director – Kirk Bacon
Director of Corporate Services – Dale Cawsey
Registrar - Joseph Fernandez
General Counsel - Jean Flanagan
Director of Professional Standards – Charles Stevenson