

The Regulator November 2010

Chair's Message

To begin my first message as Council Chair, I'd like to take this opportunity to thank Richard Parker for his hard work as Chair this past year. Richards's service brought a valuable and tireless public member perspective to the table, and for that, we are extremely thankful. I would also like to recognize the contributions of Sheldon Johnston who completed his 3-year term on Council October 31, 2010. Additionally, I would like to welcome our two new Council members: Gordon Graydon – the former member of the legislative assembly and public member appointed by the Alberta government, and Ken McCoy – associate broker and manager at Royal LePage Noralta in Edmonton, nominated by the REALTORS® Association of Edmonton and appointed by the Alberta Real Estate Association. I look forward to working with both new council members over their term. More information on the new Council members can be found in this Regulator edition.

Yearly renewals wrapped up September 30, 2010. A number of RECA news & Twitter reminders, along with updated online renewal materials and procedures, paved the way for the most efficient and timely renewal period to date. RECA thanks both industry members for their due diligence in processing their renewals on time, and RECA licensing and information services staff for their dedication and hard work.

On November 1st, there were 1,041 licensed real estate brokerages and 11,606 registered real estate industry members; 365 licensed mortgage brokerages and 2,448 registered mortgage industry members; and 653 licensed appraisal industry members.

RECA also ran a series of consumer focus groups in September. This input will provide valuable information as RECA forges ahead in its mandate to communicate strategically with consumers. Results of the focus group can be found in this Regulator edition.

Currently, we are working with industry members, brokerages, boards and associations regarding the impact of the new CREA Competition Bureau consent agreement that was ratified October 24, 2010. Since the agreement appeared imminent, RECA has been a proponent of the need for harmonized provincial MLS® rules and standards of business practice and will enthusiastically participate in this process.

In the New Year, RECA will be reviewing the strategic plan and working with appraisers in light of the recent rule amendments and the Re-licensing Education Program for Appraisers in 2010-2011. More information regarding both of these issues can be found in this Regulator.

I'm looking forward to a proactive and productive year ahead. Please accept my warmest wishes for a happy holiday season.

Updated Rules for Appraisers

Effective January 1, 2011, amended sections 76 to 80 of the *Real Estate Act Rules* (the Rules) will come into effect. These sections of the Rules pertain to real estate appraisal standards, and have not been reviewed since their inclusion on October 1, 2004.

In 2010, the Real Estate Council of Alberta (RECA) was asked by the Real Estate Appraisal Advisory Committee (the Committee) to review and amend the existing Rules as they pertain to real estate appraisers. This review was conducted in order to include the underlying principles of the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP), the International Valuation Standards (IVA) and the Uniform Standards of Professional Appraisal Practice (USPAP) into the Rules. As although the standards of these three codes of practice share common principles, breaches are formulated very differently and are subject to change with RECA control or input.

It is believed that the amended Rules do not add or modify the current CUSPAP, IVA or USPAP standards. The amended Rules will not be interpreted in conjunction with the applicable CUSPAP, IVA and USPAP Rules.

The amended Rules include:

- Appraisers will be unable to use standards for an appraiser organization for which he or she may not be in good standing.
- Appraisers will be required to maintain licensing records.
- Appraisers will be required to maintain or make available real estate appraisal records for review at the appraisers registered business office.
- Appraisers will be required to provide appraisal services in the name that appears on their license.
- Appraisers will be required to notify the executive director when they are no longer able to fulfill their responsibilities as an appraiser or when there has been a change in the business address.

The amended Rules also clarify some obligations, such as:

- Appraisers must not accept an appraisal assignment that is beyond their designation unless done in conjunction with a qualified appraiser.

- Appraisers must not accept an appraisal assignment or must refuse to provide further appraisal services when the client's instructions contravene the applicable legislation, or when the client attempts to unduly influence the appraisal outcome or the appraisal is intended to be used for fraudulent or unlawful purposes.
- Before reviewing a candidate's appraisal report, appraisers must ensure that the candidate is authorized.
- Before providing an appraisal report for review by an appraiser, candidates must ensure that the appraiser to review the report is authorized and has the appropriate designation and qualifications to review the report.
- Appraisers must ensure that any employment arrangement or independent contractor terms do not conflict with the appraisers' requirement to keep records.

The Committee consulted twice with the Appraisal Institute of Canada (AIC), the Canadian National Association of Real Estate Appraisers (CNAREA) and the Alberta Assessors Association (AAA). The first round of consultations took place in December 2009. The second round of consultations was completed on October 15, 2010.

RECA Consults Consumer Focus Groups

In July 2010, RECA contracted Weaver Marketing Research to explore consumer knowledge about the structure and regulation of the real estate industry, and to gain an understanding of the expectations consumers have when they work with a licensed real estate professional compared to their actual experiences. The following is excerpted from the final report.

Focus group research showed that, in general, consumers:

- Are most influenced, in the course of a real estate transaction, by their perception of the personal integrity / trustworthiness of their real estate professional in conjunction with their own level of involvement in the process and self-reliance/self-protection
- Do not have an understanding of the structure / regulations of the real estate industry; are not aware of RECA
- Do not understand real estate professionals' agency obligations to them, nor their own responsibilities to their real estate professional, and are less concerned than might be expected about conflict of interest situations
- Do not typically pursue information about industry structures and obligations but, once shown, state that the information is important.

Expectations

Consumer expectations surrounding real estate professional were quite consistent. Respondents stated they wanted to work with a real estate professional who listened to their wants/needs and was competent to act on their behalf; however the importance of “doing your own homework” was noted by every group. By and large consumer expectations were met – though in many cases consumers did not enter the process with many expectations.

The large majority had completed successful transactions and nearly all confirmed that they would use the services of a real estate professional in their future transactions. The attitude seemed to be that if they sensed they were getting a "decent deal", and they liked their agent, they were happy.

Every group emphasized the importance of a real estate professional’s soft skills, “trust” and “building a relationship,” as well as their knowledge of the current real estate market. The agency obligations did not enter in to consideration, nor did consumers recognize what their own responsibilities were.

Agency and RECA

Some participants said they had been provided with agency/industry relationship information by their real estate professional, others not; most were unsure. Many consumers discussed being overwhelmed by paperwork during their transactions, while others said they read everything but didn’t always retain it.

While consumers were generally not engaged to pursue information about industry licensing and regulations on their own, they were nearly unanimous in their agreement that the information shown to them (i.e., the AREA pamphlet) was of value. As consumers became more informed about industry regulations through the focus group discussion, they seemed willing to learn if information was provided in a timely and accessible manner. However, it became apparent that different consumers want different levels of information at different times.

To reach all levels, consumers suggested that the simplest general information be mandated for distribution by real estate professionals to all clients (e.g., “Top 10 Must Knows”), and that the document contain references / links to access information in greater depth on particular topics for those who wanted it. Another suggestion for an effective way to provide information would be to adopt a "just in time" approach whereby pertinent information is made readily available to consumers at each stage of the transaction process. All participants agreed that the keys are relevance, consistency, and accessibility of consumer-friendly information, and that all should be available both in print and online.

Focus group respondents were entirely unaware of the existence of the Real Estate Council of Alberta, either as a source of information or a body to address complaints. If RECA raised its public profile as a “go to” locale for easy access to understandable information, consumers could be more confidently informed, more proactive in making good choices, and better protected should their transaction go wrong.

Most consumers have little knowledge and tend to be ambivalent about the structure of the real estate industry

It was apparent that, prior to the focus group discussion, most consumers had not previously paid a great deal of attention to industry structure and regulations.

When respondents were asked to define some major real estate industry components, there was little solid knowledge or confidence displayed in any of the groups and many participants admitted they were guessing. The one notable exception was the term “Broker”, which was typically associated with “mortgage broker”.

Consumers were generally unsure, and somewhat ambivalent, when asked how each of the industry components related to each other and subsequently to them as a home buyer or seller.

Who am I in a relationship with?

The majority of consumers had used the services of a real estate professional at some point in their most recent transaction, and even those who had had a less positive experience indicated they planned to use one for subsequent transactions. Personal referral was the most mentioned way of selecting someone to work with.

Consumers seemed to be less concerned with formal services and obligations and more concerned with whether they perceived that person to be competent and honest.

Many consumers were unsure if they were in a legal relationship with their real estate professional. Most felt they had no responsibility to them unless/until documents were signed. Similarly, they could not conclusively state the real estate professional's obligations to them.

There must be regulations...right?

Consumers in all groups had virtually no knowledge about licensing and regulation of the real estate industry... and yet they did seem to feel a sense of some protection somewhere, somehow.

All groups assumed there was a regulatory body of some description, but were unsure as to whether the authority was local, provincial or federal. The “Real Estate Board”, “Real Estate Council”, “Real Estate Association” and “CREB” were all mentioned, but consumers were unable to give details or differentiate between organizations. The majority thought that real estate professionals are required to take a program of courses, but further details were vague.

The Real Estate Council of Alberta / RECA was not mentioned by a single respondent in any group.

Agency Relationship Guides – important information but communication style needs improvement

Recognition levels were very low in all groups when the moderator displayed the RECA & AREA Agency Relationships Guides, although there were some consumers who recalled seeing some/all of the information, possibly in different print or online formats.

All groups agreed that the information was crucial, but thought the material needed to be streamlined both in language and content.

Personality seemed to dictate how much, or conversely, how little information individual consumers preferred. The recommended approach was multi-level, with the simplest general information mandated first for consumers who are not highly interested. A second level of more detailed information would back up the first, and would include a number of links / references to still more resources for those who wanted them.

Conflict of Interest – mixed reactions

A series of five scenarios, detailing possible conflict of interest situations that could arise in the course of a real estate transaction, were presented to focus groups for reaction and discussion.

Reactions to the various scenarios were fairly similar between the subgroups and ranged from aghast to ‘what’s the problem?’. As the discussion progressed, consumers seemed to

continually refer to the perceived level of trust they had established with their real estate professional. If they felt confident, and the relationship was good, then their reaction to the conflict of interest scenario was consistently one of less concern.

Among those consumers who had personally experienced a conflict of interest in their transaction, almost none had complained or pursued outside resolution, focusing instead on completing the transaction and then severing ties with that real estate professional.

Benefit of Raising Public Awareness / RECA Could Facilitate Easier Access to Information

It came to light in the group discussions that many consumers who have a valid complaint do nothing about it. This research points to an opportunity for RECA to benefit from a public awareness campaign that highlights its existence and its benefits to consumers.

News Bytes

RECA Welcomes Two New Council Members

The Real Estate Council of Alberta (RECA) is pleased to welcome Ken McCoy and Gordon Graydon to Council.

Ken McCoy was nominated by the REALTORS® Association of Edmonton and appointed by the Alberta Real Estate Association. Mr. McCoy is currently an associate broker and manager at Royal LePage Noralta Real Estate in Edmonton. His prior industry experience includes Regional Manager with AE LePage and Branch and Commercial Manager for Melton Real Estate. Mr. McCoy has served on the RECA Residential Real Estate Advisory Committee from 2007 to 2010. He also served six years on the Board of the REALTORS® Association of Edmonton followed by ten years as a board member and President of the Real Estate Insurance Exchange.

Gordon Graydon is a member of the public appointed by the Honourable Heather Klimchuk, Minister of Service Alberta. Mr. Graydon was a Member of the Legislative Assembly of Alberta from 2001-2008, representing the electoral district of Grande Prairie-Wapiti. Mr. Graydon served as Minister of Gaming from 2004 to 2006 and in 2002 he chaired the MLA Task Force on Health Care Funding and Revenue Generation. Prior to becoming an MLA, Mr. Graydon served as Mayor of Grande Prairie from 1992 to 2000, served two years as President of the Alberta Urban Municipalities Association and was Chairman of the board of directors for the South Peace Health Unit.

Mr. McCoy and Mr. Graydon will begin their 3-year terms on Council on November 1, 2010.

RECA Announces 2010-2011 Chair and Chair Elect

The Real Estate Council of Alberta (RECA) is pleased to announce the appointment of Robert Telford as Chair of Council and Wayne McAlister as Chair Elect.

Mr. Telford is a real estate appraiser with McNally Land Services Ltd. and an associate broker with Home & Ranch Realty Ltd. He was nominated for Council by the provincial appraiser associations in 2007, and is now entering his second three-year term. Mr. Telford joined the real estate industry in 1989, and became Vice President of the Alberta Association of Professional Appraisers from 1998-2000 and President of the Canadian Association of Petroleum Landmen in 2008. Mr. Telford is the first real estate appraiser to become Chair of Council.

Mr. McAlister is an associate broker with Re/Max Landan Real Estate in Calgary. He was nominated by the Calgary Real Estate Board and appointed to Council by the Alberta Real Estate Association. Mr. McAlister was appointed to Council in 2007 and is now entering his second three-year term. Mr. McAlister entered the real estate industry in 1978 and went on to become President of the Calgary Real Estate Board in 1995 and President of the Calgary Real Estate Board Charitable Foundation in 2004. In 2005 he received the Calgary Real Estate Board's T.W.H. Saunders Award for dedication to the real estate industry and the community.

Mr. Telford and Mr. McAlister will serve in these positions for a one year term, ending on October 31, 2011.

Alberta Transportation Removing non-Permitted Real Estate Ad Signs

The Government of Alberta Transportation department recently brought the issue of using non-permitted advertising signs in provincial highway right-of-ways to RECA's attention. Although Alberta Transportation had previously taken a tolerant attitude to non-permitted advertising signs along provincial highways, the increase of signage used by industry members has created a safety issue for the travelling public.

Section 11 of the Highway Development and Protection Regulation states this type of signage requires a permit from the Government of Alberta Highway Operations department. Effective immediately, all real estate associates must apply for a no-cost permit for advertising signs outside of the highway right-of-way, and no signs are to be placed inside the right-of-way boundaries.

For example:

- The use of larger signs, mounted high enough to block a driver's sight line and/or supported by dimensional lumber or other non-breakaway mounts are not acceptable along provincial highways.
- Sandwich board signs or other temporary signs for open houses, or short-term events, on or

the travelling surface of a provincial highway are not allowed.

Yard signs located on private property outside the highway right-of-way are not generally an issue. Please note that small, temporary directional signs that don't obstruct a driver's view of an intersection or cause damage to vehicles that may run off the road will be left in place by Alberta Transportation for a reasonable period of time before removal.

Be advised that the Transportation Department will now follow their standard process to remove non-permitted real estate advertising signs. For more information regarding this issue call or write to:

Steve Otto,

Alberta Transportation

2nd Floor, 4999– 98th Avenue,

Edmonton, Alberta. T6B 2X3

1-780- 643-0796

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