

ASSISTANTS – REAL ESTATE BROKERAGE

Summary: A real estate broker must not assign tasks to an unauthorized assistant that must only be performed by an industry member. The real estate broker must ensure clients, customers and the public have full knowledge that the assistant is not authorized (unlicensed or unregistered). [See *Real Estate Act* s.17, *Real Estate Act Rules*, s.46]

Note: For the purposes of this Information Bulletin, and where the context permits, “broker” means real estate brokerage, broker, associate broker and associate and “assistant” means an individual who is not licensed and authorized to trade in real estate by the Real Estate Council of Alberta.

Before trading in real estate, an individual is required to hold the appropriate authorization (licence and registration with a licensed brokerage) issued by the Real Estate Council of Alberta [*Real Estate Act*, s.17]. Obtaining the necessary licensing education and starting a career in real estate brokerage comes at a cost in both time and money and, as a result, the popularity of individuals starting their career as an assistant to a real estate broker is increasing.

An assistant is a definite asset to a busy real estate brokerage as they can perform many of the day-to-day administrative tasks that keep a real estate broker from dealing directly with clients. However, because they are not authorized to trade in real estate, assistants are restricted in the duties they may perform.

There are some basic rules a real estate broker needs to follow. An industry member must only assign to support personnel or assistants tasks they are competent to perform and must not in any way allow an assistant to perform tasks that must only be performed by a real estate broker. A real estate broker must ensure clients, customers, the public and other industry members have full knowledge that the assistant is not authorized to trade in real estate.

It is particularly important for a broker to be aware of all assistants who are employed by the brokerage, or its associate brokers and associates registered to that brokerage, and of the range of duties an unlicensed assistant can legitimately perform. This is because the broker may be subject to disciplinary proceedings for the improper conduct of an unlicensed assistant.

Assistants can be hired by either a brokerage or an individual associate broker or associate. However, regardless of what entity does the hiring, brokerages must have policies for unlicensed assistants who do not deal directly with members of the public, especially with respect to the confidentiality of client information. Council policy is that if an assistant is dealing directly with members of the public, he or she must be employed by the brokerage.

Experience has shown the line between trading in real estate and more administrative activities is not always clear. This Information Bulletin outlines activities that can be

carried out, and those that cannot be carried out, by an unlicensed assistant in a real estate brokerage office.

The following guidelines have been developed to help real estate brokers and unlicensed assistants avoid problems.

Assistants Must:

- Always identify themselves to the public and/or other industry members as assistants to their employers.
- Have written consent from the broker in order for an associate broker or associate to hire them.
- Possess an agreement outlining the assistant's job description and remuneration formula; a copy must be maintained in the broker's file.

Assistants May (under the supervision of the real estate broker):

- Answer and forward telephone calls to real estate brokers and employees in the brokerage.
- Submit listings and changes to the Multiple Listing Service® (MLS®).
- Follow up on loan commitments after a contract has been negotiated.
- Assemble documents for closing or incoming/outgoing tenants.
- Secure documents (public information) from the courthouse, public utilities, etc.
- Have keys made for the real estate broker's listings or rental/lease unit at the request of the real estate broker.
- Write ads for the approval of the real estate broker and place approved advertising (promotional information, newspaper ads) with the media.
- Record and deposit trust money, security deposits and advance rents.
- Type contract forms for the approval of the real estate broker.
- Compute the amount of commission cheques to be paid.
- Place signs on property on behalf of the real estate broker.
- Order items of routine repairs as requested by the real estate broker.
- Prepare flyers and promotional information for approval by the real estate broker.
- Act as a courier service to deliver documents and pick up keys.
- Schedule appointments for the real estate broker to show listed properties or rental units.
- Retrieve information from the real estate board for the real estate broker's use only.
- Update MLS® catalogues from the daily bulletin and information sheets.
- Set up listing or tenant files, take photos of listings or rental properties, complete fact sheets for the approval of the real estate broker and deliver them to properties.
- Open the real estate broker's listing or rental units for appraiser, inspectors, etc. (subject to the *Residential Tenancies Act*).
- Install lockboxes on the licensed real estate broker's listings only.
- "Broker load" new listings into the MLS® system as long as information is verified by the real estate broker.
- Distribute personal brochures or flyers with no public discussion on real estate matters.
- Have a business card stating they are an unlicensed assistant to the brokerage.
- Distribute information as approved by the real estate broker on listed or rental properties to the public.

- Inspect and measure homes if the measurements are verified by the real estate broker.
- Make cold calls to canvass interest in using the services of the real estate brokerage.

Unlicensed Property Management Assistants May:

- Accept payment for rent and security deposits after an agreement has been negotiated by the real estate broker.
- Perform bookkeeping functions.
- Obtain leads for the real estate broker.

Real Estate and Property Management Assistants May Not:

- Place promotional materials or ads without the review and approval of the real estate broker.
- Show properties, either rentals or sales.
- Preview homes or listings unless accompanied by the real estate broker, excluding open houses.
- Answer any questions from the public concerning listings, titles, financing and closing.
- Discuss or explain a contract, listing, property evaluation, lease agreement and/or other real estate documents with the public.
- Attend a listing or sales presentation unless accompanied by a real estate broker.
- Negotiate purchase contracts, listing contracts, rental agreements or leases.
- Negotiate or agree to any commission, commission split, management fee or referral fee on behalf of the real estate broker.
- Negotiate the amount of rent, security deposit or other lease provision in connection to rental properties, with the exception of properties owned by the real estate broker.
- Hold publicly advertised open houses.
- Represent themselves, at any time, as industry members or real estate brokers.
- Place telephone calls on late rent payments with the exception of properties owned by the real estate broker.
- Have a keybox or any type of access key/code to a keybox.

Property Management Assistants May Not:

- Act as a “go-between” for a tenant or owner and a real estate broker when an agreement is in place.