



## ACTING AS A REAL ESTATE APPRAISER – JURISDICTION AND THE *REAL ESTATE ACT*

**Summary: Individuals who wish to act as a real estate appraiser in Alberta are required to obtain a license from the Real Estate Council of Alberta. When real estate appraiser activities take place outside of Alberta’s boundaries, application of the *Real Estate Act* may become more complicated with respect to whether a license is required. The *Real Estate Act* will apply to real estate appraisers in usual cases and in cases where a substantial connection to Alberta is present.**

The *Real Estate Act (Act)* section 1 defines “real estate appraiser” and “real estate”. Apart from statutory exemptions, the *Act* requires that people who wish to act as real estate appraisers obtain a license from the Real Estate Council of Alberta. This requirement applies to both appraiser and candidate classifications. The facts in any particular case will be determinative of whether or not a person is acting as a real estate appraiser pursuant to the *Act*. RECA, courts and other decision makers are in a position to make these decisions.

When there is a question as to whether or not the *Act* applies, the decision will likely be made on the basis of the activities and criteria related to a legal test known as the “real and substantial connection” test. “Substantial connection” is not defined in the *Act*. The concept is most commonly used when a decision maker is determining which jurisdiction is the most appropriate to deal with a dispute or a legal action. In reviewing the facts, the decision maker considers the connectors present in competing jurisdictions and determines which connectors are the more significant, thus creating the “substantial connection”, as opposed to a more casual or tangential connection.

Activities by real estate appraisers licensed under the *Act* which are wholly completed within the geographic boundaries of Alberta would, in ordinary circumstances, be covered by the *Act*. When the real estate appraisal activities contain components in a jurisdiction other than Alberta, application of the *Act* may become more complicated.

The following are some of the factors which will likely be considered by a decision maker in determining whether there is a substantial connection to a jurisdiction:

- the location of the real estate appraisal activities of the real estate appraiser
- the location of the real estate which is the subject of the estimate for value
- the ordinary residence of parties to a service agreement for real estate appraisal services
- the province in which the real estate appraiser holds a license to act as a real estate appraiser

- the method and place documents, such as an appraisal report, are executed
- the place(s) where the appraisal report will be relied upon
- the method and place from which documents, such as service agreements and appraisal reports, are sent or provided to parties
- the place where money originates and is delivered to pay for real estate appraisal services
- whether or not the licensed real estate appraiser was acting as a real estate appraiser as defined in the *Act*
- the place real estate appraisal reports and records are held
- any choice of law clauses adopted by parties in any agreement

Today, the reality is that in addition to more traditional real estate appraisal practices, real estate appraisal activity takes place in an electronic age. Activities or components of real estate appraisal activities may occur in several jurisdictions using the internet, email and faxes. The *Act* will apply to acting as a real estate appraiser in usual cases and in cases where a substantial connection to Alberta is present.