



HOLDING ONESELF OUT AS AN INDUSTRY MEMBER

Summary: No person shall advertise himself or in any way hold himself out as a mortgage broker, real estate broker or real estate appraiser unless they hold the appropriate authorizations from the Real Estate Council of Alberta. [See: *Real Estate Act*, s.17, s.81(3)]

Note: For the purposes of this Information Bulletin, and where the context permits, a reference to a real estate broker, mortgage broker or real estate appraiser, includes all categories of licence issued by the Real Estate Council of Alberta.

In order to trade in real estate as a real estate broker, or deal in mortgages as a mortgage broker, or conduct appraisals as a real estate appraiser in the Province of Alberta, a person must be authorized (licensed) by the Real Estate Council of Alberta (RECA). A person must also be authorized if they advertise, represent themselves or hold themselves out as an industry member.

“Holding out” includes but is not limited to any of the following activities:

- advertising in any form to attract buyers, sellers, borrowers or lenders, including business cards, or business premises with signage
- creating and disseminating any promotional materials to the public or industry
- showing properties, either rental or sales, to potential customers
- previewing properties
- holding open houses
- negotiating contracts on behalf of a client
- soliciting listings or property management contracts from prospective clients
- acting as a “go-between” for a tenant or an owner when an agreement is in place
- leading a client to believe they are in the business of soliciting persons to borrow or lend money
- collecting borrower information
- disseminating borrower information to lenders

Penalty for a Contravention

If an unauthorized (unlicensed) person holds himself out as a real estate broker, mortgage broker or real estate appraiser/candidate such conduct is a contravention the *Real Estate Act* s.17. A person who contravenes section 17 of the *Real Estate Act* can be guilty of an offence and liable to a fine up to \$25,000 for each contravention if convicted. Where a corporation commits the offence, any officer, director or agent of the corporation, who directed, authorized, acquiesced in, assented to or participated in the commission of the offence is guilty of the offence and liable to the same fine. A person convicted of an offence under section 17, in addition to the fine, shall return all commissions or other remuneration received by that person from the unauthorized activity [*Real Estate Act*, s.81(3)].

In lieu of a prosecution, the executive director of RECA may issue an administrative penalty in the amount set in the notice (up to \$25,000) for each contravention.

Commentary

Conducting business as a real estate broker, mortgage broker or real estate appraiser without the proper authorization is a serious matter. RECA frequently receives information concerning firms or individuals who have never been authorized conducting business for which they need to be authorized (licensed) by RECA. RECA will investigate and enforce the *Real Estate Act* to the extent possible in such cases, including cooperating with Alberta Justice to support prosecution.

RECA also receives information concerning industry members who fail to renew their licences by September 30 of any given year but continue to conduct business or hold themselves out as a real estate broker, mortgage broker or real estate appraiser on and after October 1. This activity constitutes a breach of section 17 of the *Real Estate Act* and is subject to the same penalties outlined above. For this reason, industry members are encouraged to complete their licence renewals prior to the September 30 deadline or, failing renewal by the deadline, to cease all business operations that require a RECA licence until such time as the appropriate authorization is issued.

Practice Tip

Real estate and mortgage broker industry members can ask their broker to print a copy of their registration certificate using the RECA Online licensing system. Real estate appraisers and candidates can check their status at anytime using the RECA Online system. Additionally, each year on October 1, industry members are encouraged to use the RECA Online system or public inquiries portion of the website to ensure their authorizations have been renewed.