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**Vol. 18 • Issue 3
August 2013**



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Message From Council

Bill Buterman, Chair

In July 2011 Council approved an ambitious five-year Strategic Plan, which included a commitment to initiatives and projects that will provide industry professionals with the opportunity to advance their position as leaders in self-regulation, further enhance and improve the quality standards of the real estate industry, while elevating the professionalism and reputation of industry members. As we reach the half-way mark of this plan, we are aware how much work has been accomplished so far and while we are very pleased with the work accomplished, there is much more left to do.

Alberta continues to be a leader in economic growth and opportunity and although not unanimous, most believe that our province has a privileged future of development and growth. The real estate industry, in all its disciplines, will be pivotal in the quality and richness of the outcome for future generations.

Our objectives do not come without cost and while we have avoided substantial increases, Council needs to incrementally raise licensing fees to keep in step with industry advancement. The importance of a balanced budget cannot be underestimated; it is pivotal to the long-term sustainability and growth of any organization or company. We (RECA) are no exception, and throughout our 17-year history, RECA has placed a tremendous level of importance on the need for a balanced budget.

For individuals in all three industry sectors, the licensing fee will be \$525 for the October 1, 2013-September 30, 2014 licensing period. For brokerages,

the licensing fee will be \$450. The annual licensing and registration fees paid by industry professionals remain the single largest source of revenue for RECA. Our fees are set at a level to recover RECA's operational costs, the expenses required to provide core services to its licensees, including the cost of developing and delivering the Re-licensing Education Program, and the funds necessary to accomplish the strategic business plan initiatives.

While this is by no means an exhaustive list, some of the projects currently underway and to be seen in the coming year include:

- the development of new Office Management and Brokerage courses for the real estate and mortgage brokerage sectors
 - New broker courses will lead to better prepared, professional brokers, and will help ensure new brokers have the required competencies and knowledge to be leaders in the industry;
- Re-licensing courses in all three industry sectors
 - Re-licensing education program courses are the primary means through which industry professionals stay current on changes in legislation and trends in the industry. REP courses are timely and relevant, and they help protect the public interest.
- the implementation of written service agreements
 - Written service agreements are a key tool through which industry members can ensure their role is clear to their clients. When there is greater clarity, there is a lower chance of disputes arising.



- broad industry consultation on a new licensing model for the real estate brokerage sector;
 - A new licensing model could lead to a more efficient, targeted licensing system for professionals within Alberta’s real estate brokerage sector. Broad consultation is necessary to ensure any new model reflects the wishes of industry professionals.
- the simplification of mandatory form content in real estate;
 - Simplified mandatory content will lead to better working relationships between industry professionals and consumers.
- the re-design of the RECA website;
 - More user-friendly ways of finding the information that is most important to industry professionals and consumers.
- the development of a new RECA Online licensing system;
 - The RECA Online licensing system will be modernized and will be better able to reflect and capture any changes to the current licensing model. It will be a more efficient system, which is more intuitive for industry professionals’ use.
- launch of a new Practice of Mortgage Brokerage course (through the Alberta Mortgage Brokers Association);
 - Collaborating with AMBA on the development of this course will ensure pre-licensing education prepares new mortgage brokerage professionals for the day-to-day business of dealing in mortgages.
- plain language, easy to understand, forms, tools and resources for industry professionals and consumers.
 - Industry professionals and consumers will have the resources at their disposal that ensure positive working relationships and a better understanding of the industry.

We have identified these projects as priorities moving forward because of the benefits they will bring to industry professionals and consumers. These projects help us ensure our industry professionals have access to current education programs, provide industry professionals with the resources and tools they need to work positively and competently with consumers, and ensure our IT systems, including the RECA Online licensing system, remain as leading-edge and functional as possible.

As industry members ourselves, it is always difficult when Council makes decisions relating to licensing fees. These decisions generate extensive and heated discussion around the Council table, as they did once again this year. That being said, Council remains committed to providing industry professionals with the services and resources on which they depend while remaining fiscally responsible, and this year, to do so requires a fee increase.

We know that industry professionals across the province are working to be leaders in the industry. We know you are committed to professionalism, competence and continual improvement as much as we are at RECA.

On behalf of the entire Council, they and I thank you, for your commitment to our industry and your support of professionalism in our industry.



Renewals are right around the corner

Simpler forms and a more streamlined process await industry professionals across the province when the Real Estate Council of Alberta (RECA) begins its annual renewal period in late August.

At the conclusion of last year's renewal period, RECA carried out a renewal survey with all brokers and real estate appraisers/candidates to gather their input on the renewal process and areas for improvement (and things that should stay the same). Some of those answers have led to changes for this year's process.

Three of the most significant changes are:

- RECA has removed the affidavit portion from the renewal forms. Without an affidavit required, the renewal process for industry professionals is more streamlined.
- If a broker does not have a controlling interest in the brokerage, the entity that does have controlling interest must complete the brokerage application forms.
- Real estate appraisers and candidates now have a separate form for their licence renewal; it is no longer the same form as for a first-time licence. The appraiser/candidate renewal form will not have an affidavit.

RECA will send out a reminder RECA News email to all industry professionals when the RECA Online licensing system becomes available for renewals to begin. Brokers

with renewal or licensing-specific questions are invited to contact RECA through the dedicated broker priority email address brokerinfo@reca.ca. Real estate appraisers and candidates are encouraged to use the appraiser/candidate renewal priority email address appraiserrenewal@reca.ca for their questions.

In order to achieve a balanced budget for the coming year, Council has had to make the difficult decision to raise licensing fees for individual industry professionals and for brokerages. For individuals in all three industry sectors, the licensing fee will be \$525 for the Oct. 1, 2013-Sept. 30, 2014 licensing period. For brokerages, the licensing fee will be \$450.

The annual licensing and registration fees paid by industry professionals remain the single largest source of revenue for RECA. Fees are set at a level to recover RECA's operational costs, the expenses required to provide core services to its licensees, including the cost of developing and delivering the Re-licensing Education Program, and the funds necessary to accomplish the strategic business plan initiatives.



Anti-Spam Law is Coming

There is no getting around it: new legislation, Canada's Anti-Spam Law (CASL), WILL affect your business. CASL will require organizations to obtain a recipient's permission before they can send them a commercial electronic message (CEM). Failure to comply with CASL could result in criminal or civil charges, personal liability for you, your broker and your brokerage, and penalties up to \$10 million.

This law has not come into force yet, but the government has announced it will in late 2013/early 2014. As an industry professional, you likely text, tweet, post on Facebook and send emails in connection with your business, and should be aware of how this new law will affect you.

What constitutes a CEM?

CEMs are electronic messages that encourage participation in a commercial activity, such as an email that contains a coupon or tells customers about a promotion or sale. Publication of blog posts on micro-blogging and social media sites could be inside the scope of this legislation if they contain content that may be construed as commercial activity.

Obtaining Consent

Recipients can provide their consent to receive CEMs verbally or in writing (including electronic writing). Consent can also be implied if there is an existing relationship with the recipient, if the recipient clearly publishes their electronic contact information, or if a recipient voluntarily provides contact information without indicating they don't want to receive any communications. When requesting a prospective

recipient's consent, you must them with:

- The name of the person or organization seeking consent
- A mailing address and either a phone number, voice message system, email address or website where recipients can access an agent for more information
- A statement identifying the person on whose behalf consent is being sought
- The identity and contact information of any third-party or affiliate used to obtain consent
- A free unsubscribe mechanism that lets recipients electronically opt-out of communications
- The ability to opt-out of all types of communications sent by either your organization or a third-party partner

Exemptions

Some communication activities are exempt from the legislation. The activities most likely to apply to industry professionals include:

- **Business-to-Business Communications.** You will still have permission to send CEMs to other businesses with which you have an ongoing relationship. The message must, of course, be related to the recipient's business.
- **Responses to Requests for Information.** If a consumer makes a request, inquiry or complaint to you, you are allowed to include CEMs in your response to them, and in future correspondence once the initial contact is made.



- **Enforcing a Legal Right.** CEMs sent in order to enforce contractual obligations are allowed.
- **Messages Sent From Outside Canada.** These are not captured by the legislation as long as the sender could not reasonably know the message would be received in Canada, or if the sender is an internationally based organization with operations in Canada.
- **Third-Party Referrals.** Third party referrals are exempt if you, as the initiator of the CEM, disclose the full name of the person who made the referral, and if the person doing the referral has an existing relationship with both you and the person who was referred.
- **CEMs to Persons with Whom you Have a Personal Relationship.** The law outlines “personal relationship” to be one where individuals have had voluntary, two-way communication at any time in the past, regardless of whether they have ever met face-to-face. These relationships are exempt, unless one party has expressly asked not to receive CEMs.

What about Third Party Partners?

Today’s business world is digital and often extremely complex and inter-related. Often, when someone consents to receive a CEM from one organization—a brokerage, for example—it is not uncommon for them to consent to receiving messages from related, but unknown, third parties, such as a brokerage’s franchise company. Under CASL, consent to receive third-party CEMs is allowed if recipients can unsubscribe from the CEMs. When this happens, the original organization must notify each third-party that consent has been withdrawn.

Make a Plan

To make sure you comply with CASL, start by doing these things right away:

- Determine if you are sending CEMs
- Identify the channels through which you send CEMs
- Assess if you have implied or express consent to send CEMs or if an exemption applies
- Develop a plan to obtain any required consents
- Make sure your CEMs contain the content required by CASL
- Determine how CASL may affect your policies, processes, IT systems, and staff training and awareness programs
- Revise your policies, processes and systems as required
- Keep an audit trail, since CASL contains a “due diligence” defense

RECA will communicate to the industry when a date for this legislation to come in to force is announced. Until then, industry professionals are encouraged to review their advertising and communications strategies and determine if the new legislation will apply to them.

For more information on Canada’s Anti-Spam Legislation, click [here](#).



Virtual Assistants and You

More and more industry professionals are using virtual assistants to help them manage their day-to-day work. Virtual assistants are independent contractors who provide services (some administrative, some more specialized) to businesses and individuals – typically, from a remote location; that location may be local, offshore or somewhere in between.

The Real Estate Council of Alberta (RECA) doesn't have an issue with the use of virtual assistants – but wants to ensure that regardless of the type of assistant an industry professional is using, the rules stay the same.

Over the past few years, the concept of virtual assistants and now, offshore virtual assistants, has made its way into "trading in real estate." Years ago, assistants had to be employees of the brokerage. More recently, for various reasons, virtual assistants have become employees of individual industry professionals or multiple industry professionals instead of the brokerage as a whole. This has some implications for consumers from a confidentiality perspective and from a privacy perspective, both of which can easily be addressed in practice.

Disclosure of Confidential Information

Section 44 of the *Real Estate Act* Rules is clear in that industry professionals must not disclose any information regarding a client, property or transaction to another person unless they are authorized by the client or required by law.

In the standard Alberta Real Estate Association (AREA) agreements, the

brokerage (and therefore, industry professionals registered with it and the staff employed by it) are given consent to collect, maintain and disclose a client's personal information. The client's personal information cannot be disclosed to anyone outside of the brokerage, which means individual industry professionals or teams of professionals cannot disclose a client's personal information to virtual assistants without the client's consent.

With the advent of virtual assistants, how does an industry professional receive consent? In most cases, the need to receive such consent is being overlooked.

A simple addition to the Seller Brokerage/ Buyer Brokerage Agreement can satisfy this requirement. Within the part of the agreement that provides the brokerage with the client's consent to collect, use and disclose the client's personal information, an additional line can be added that indicates "a virtual assistant employed by _____ has that same consent."

While industry members have told RECA that clients typically do not have an issue with the use of virtual assistants – any time their confidential information is going to be disclosed to someone outside of the brokerage, the clients' consent is needed first.

Offshore Privacy Concerns

On the privacy side, industry professionals who use virtual assistants, particularly offshore virtual assistants, need to be cognizant of the fact that other jurisdictions may have different rules and requirements with



respect to the storage of information. Alberta industry professionals ultimately remain responsible for ensuring their client's information is stored appropriately and that can be much more difficult when that information is outside of Alberta. The further you are from the information, the more difficult it is for you to control how it is being maintained.

Additionally, if an industry professional is using a service provider outside of Canada (i.e. an offshore virtual assistant) to collect personal information, or is transferring personal information to a virtual assistant outside of Canada, the industry professional must notify the individual whose personal information is being transferred. That notification can be in writing or verbal, and the individual whose personal information is being transferred must be advised of how they can obtain written information about the industry professional's policies and practices with respect to service providers outside of Canada, and they must be advised who can answer questions about the collection, use, disclosure or storage of personal information by service providers outside of Canada.

For more information on Alberta's privacy legislation, the *Personal Information Protection Act*, click [here](#).



New Forms for Industry Professionals

Along with updated licensing and renewal application forms, the Real Estate Council of Alberta (RECA) will be introducing two additional forms for industry professionals.

AKA Request

Individuals who wish to begin using an Also Known As (AKA) name are to complete an "Also Known As (AKA) Name Request" form and provide the completed form to RECA for review and processing. AKA names will typically be approved by RECA as long as they are a shortened version or common short form of the industry professional's legal given names.

Name Change Request

Industry professionals who have legally changed their name, or whose names have changed because of marriage, divorce, etc., can now submit a formal "Notification of Name Change" form to RECA for processing. In doing so, they will have met the requirements of section 40 of the Real Estate Act Rules and RECA staff will update their RECA Online licensing system file to reflect their name change. Along with the completed form, individuals must provide a copy of government-issued identification showing the new name.



Here are some links and snippets to a few RECA Blogs from the past month. For those who may not have visited the RECA Blog, it has been created specifically to assist all industry professionals and to generate discussion. RECA Blog addresses issues and trends that are important to those in Alberta's real estate, mortgage and appraisal sectors.

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Conditional Offers: Right Questions, Honest Answers

To both sellers and buyers' representatives, the earlier in the selling and buying process that you engage in a conversation about the disclosure of conditional offers, the better understanding your clients will have about our market and the way it works, and the more value you add.



Not So Picture Perfect



In real estate, a picture can be worth a thousand words. But, what if the pictures don't accurately represent the property in question?

RECA Practice Tip: Advertising - False/Misleading

Doug Dixon, the Real Estate Council of Alberta's Real Estate Practice Advisor, discusses how industry professionals must ensure their advertising is not false or misleading to consumers.



2012-2013 Council Members

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Appointed from the public

BILL BUTERMAN, CHAIR
Appointed from non-AREA industry members

KEVIN CLARK, CHAIR-ELECT
Appointed from residential real estate industry members

CINDY DUBRAY
Appointed from the property management sector

GORDON GRAYDON
Appointed from the public

CHAD GRIFFITHS
Appointed from the industrial, commercial and investment real estate sector

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Appointed from the Calgary Real Estate Board

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CONTACT RECA

The Regulator is published by the Real Estate Council of Alberta.

Please forward any questions regarding the content of the Regulator, or any questions regarding licensing or mandatory education, to info@reca.ca



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