

The Regulator

February 2018

Vol. 24 / Issue 1

Message from Council

Council meeting highlights

Let us know! Mortgage rules consultation

RECA launches first commercial and property management specific re-licensing course

Keep everything: Mortgage brokerage document retention

Advertising, social media, incentives and you

News bytes



Message from Council

Brian Klingspon,
Chair



The real estate industry in Alberta has had the privilege of self-regulation for more than 20 years. With the recent scrutiny of real estate self-regulation in British Columbia and Ontario—and in Alberta in other industries—this is a privilege we need to take more seriously than ever.

The core of the Real Estate Council of Alberta's (RECA) ability to self-regulate the real estate industry is in its fulfillment of its mandate.

RECA protects Alberta consumers, and provides services that improve the business of industry professionals.

RECA is at the forefront of self-regulation in Canada; we are an example of how strong an industry can be when it's effectively and efficiently regulated. Of course, RECA also believes in continuous improvement, so in my year as Chair, I want to continue Council's focus on RECA's mandate.

Protecting the Public

The Alberta government created a licensed and regulated industry through the Real Estate Council of Alberta's administration of the *Real Estate Act* to help ensure Alberta consumers have access to ethical, professional, and competent real estate services. Consumers can trust an industry when there is strong education, high standards, and regulatory accountability.

Our licensed industry members are the guardians of that trust, which they build even before beginning a working relationship with a consumer. They do so through their advertising, their work in the community, and their reputation.

RECA wants to help industry professionals in their relationships with consumers through the development of consumer resources. The key source of consumer feedback and the basis of these consumer resources



is the Consumer Advisory Committee, with additional feedback from RECA's consumer focus groups. We will make sure the information consumers need is easy to find and easy to understand. When all parties understand the role of the real estate professional, and sign a document acknowledging their understanding, there are fewer misunderstandings or conflicts later on.

We continue to work on the design and development of condominium manager regulation. When the *Condominium Property Amendment Act* comes into effect, RECA will be responsible for educating, licensing, and regulating condominium managers. RECA continues to work behind the scenes on the next stage to ensure we will be ready when the time comes.

As with regulation of the real estate brokerage, mortgage brokerage, real estate appraisal, and property management industries, consumers can

trust a regulated condominium management industry. Condominium ownership in Alberta is significant, and consumers who own condominiums or sit on condominium boards need to be able to trust the professionals they hire to manage their condominium corporations. Licensing and regulation will help build that trust.

Services that Enhance the Business of Industry Professionals

The services RECA provides industry professionals keeps them up-to-date in a changing regulatory landscape, and can help better serve consumers.

We just launched the Re-licensing Education Program (REP) course for commercial and property management real estate professionals. We're excited to offer this as the first re-licensing course specific to commercial and property management real estate practitioners. The course content will help these professionals keep their business in line with legislation and appropriate commercial practices.

RECA knows there are other ways we can provide services to our industry professionals. You'll see elsewhere in this newsletter that we're launching a consultation on possible changes to the Rules for mortgage brokers/brokerages. RECA wants to be as good as we can be, and we strive to continuously improve for the betterment of the industry and to better protect consumers.



Consulting on the proposed changes, however, is only part of this initiative. The other part is to ensure that when we're making – or proposing to make – such changes, we also work with industry members to offer them tools, resources, and information to make any transitions easier. We're hopeful that mortgage brokerage industry members will see the benefit of providing their feedback as part of this consultation; together, we can strengthen the industry overall and enhance consumer protection.

I encourage you to read more about the consultation (on page 8) and to take part and make sure your voice is heard.

We are also approaching the one-year anniversary of Gary Siegle joining RECA as its Mortgage Broker Practice Advisor. Gary's decades of experience as a mortgage broker and his years on Council means mortgage brokers and delegates have an excellent resource and service at their disposal.

Gary began his career with the Canada Mortgage and Housing Corporation and worked for decades in mortgage brokerage, mortgage insurance, and mortgage broker education. Gary is available to answer broker questions on a without prejudice basis, and he travels around the province making presentations to mortgage brokerage professionals and industry associations.

Appreciation

I would like to thank Council and RECA administration for their hard work and dedication during my time on Council, and look forward to working with everyone productively during my year as Chair.

It was an honour to serve with Christine Zwozdesky, our outgoing Chair. Christine will continue on Council as Past Chair, and I'll greatly appreciate her experience and advice in my term as Chair.

I would also like to thank Tony Dhaliwal for his service on Council. As the public member appointed by Service Alberta, Tony worked tirelessly to ensure Council heard the public's voice.

I want to welcome Amina Deiab as Tony's replacement as public member on Council. Amina's energy and professionalism are already a great addition at the Council table.

Council highlights January 24 meeting

- 1. Council received a report on the RECA Communications Audit**
Downey, Norris & Associates presented the results of RECA's Communications Audit. The objectives of the audit were to:

- evaluate and assess the effectiveness of RECA's internal and external communication programs and practices in supporting its strategic plan
- provide recommendations for improvement of RECA's internal and external communications to position their efforts to service organizational and stakeholder needs
- provide recommendations and a plan for development of employee skills and resource requirements to ensure the communications function serves evolving organizational and stakeholder needs and expectations

RECA is reviewing the recommendations within the report, and will share key findings with stakeholders later this spring.

- 2. Council approved the Audited Financial Statements and Annual Report for the year ending September 30, 2017**

RECA's 2016-2017 Annual Report and Summarized Financial Statements are available on RECA's website, [here](#).

- 3. Council reviewed a consultation plan for proposed standards of practice and Rule changes within the mortgage brokerage sector**

At its October meeting, Council directed RECA Administration to develop a consultation plan and paper for consulting mortgage brokerage stakeholders on proposed changes to the Real Estate Act. These proposals relate to:

- disclosures of material risk and product suitability
- enhanced mortgage fraud prevention and detection
- the intermediary relationship option
- stronger protection for private lenders/investors

Read more about this consultation, and how you can provide your feedback on page 8.

Council highlights continued

4. Council instructs a review of the activities of appraisal management companies

Council directed the Real Estate Appraisers Advisory Committee (REAAC) and RECA Administration to review the activities of appraisal management companies, and how those activities affect the public and licensed real estate appraisers. REAAC and RECA Administration will make recommendations to Council, including the feasibility for licensing appraisal management companies under the *Real Estate Act*. There is no timeline in place for this project; Council will review its strategic business plan and determine what resources are necessary to undertake this project at a planning session later this spring.

5. Council approved an In-Camera Policy

Given the desire to improve the openness and transparency of Council proceedings, it is necessary to have a formal in-camera policy, which will ensure in-camera discussions meet the criteria for confidential and privacy issues. This will ensure that only meeting portions that meet the stated criteria proceed in-camera. Council meeting minutes will be available to the public on our website once approved by Council. Read the In-Camera Policy [here](#).

6. Council approved a Social Media Policy

The policy recognizes that it is up to each individual Council member to decide whether they wish to participate in social media, but also impresses upon Council members the inherent responsibilities, such as confidentiality and respectfulness, that come along with serving as a Council member for a provincial regulatory body.

Council highlights continued

7. Council approved a Correspondence Protocol

The correspondence protocol guides the Chair and executive director in carrying out their spokesperson responsibilities related to written correspondence. This policy works in conjunction with the Role of RECA Spokesperson policy.

8. Council approved a motion to complete the purchase and financing of the new RECA office building

9. Council received its stewardship report from the executive director

On an annual basis, the executive director tables a written report to Council in accordance with its Stewardship Reporting Policy.

This report is a tool to support the oversight responsibility of RECA operations in the following areas:

- fraud and theft
- privacy policy
- health, safety and environment
- ethical conduct
- legal actions

Let us know! Mortgage rules consultation

Let us Know! Mortgage Brokerage Proposed Standards of Practice and Rule Changes

The Real Estate Council of Alberta (RECA) is reviewing mortgage brokerage standards and Rules to enhance consumer protection, ensure our standards of practice are strong, and to document current practices in the mortgage brokerage industry. We want to know what our stakeholders think of the proposed changes.

RECA urges mortgage professionals to read the [Mortgage Brokerage Proposed Standards of Practice and Rule Changes Consultation Paper](#) and provide input on:

1. Disclosures of material risk and product suitability to consumers
2. Removal of intermediary relationship option
3. Document and Information Verification: Mortgage Fraud

4. Private lending procedures
5. Mandatory content forms to assist these changes

Stakeholders can provide their feedback on these proposals via an [online survey](#). We encourage all stakeholders to review the complete consultation paper before providing their feedback. Please provide your feedback on or before May 8, 2018.

RECA will also host Town Halls in Calgary and Edmonton in March to facilitate open discussion on the topics in the consultation paper. When we confirm dates and locations, we'll notify stakeholders.

Goals of this consultation:

1. Council wants to ensure that Alberta's rules and standards of practice are strong, and continue to provide appropriate consumer protection.
2. Council wants to know if there are ways in which it can and should enhance consumer protection in a number of



areas, while recognizing the needs of mortgage brokerage professionals.

3. Council acknowledges that self-regulation is a privilege, and wants to retain that privilege.

Other jurisdictions in Canada have experienced increased government scrutiny and, in the case of British Columbia's real estate industry, have lost the privilege of self-regulation. As a proactive regulator, RECA makes every effort to continually enhance its regulation of the industry, and ensure consumer protection remains at the core of its work.

How did we get here?

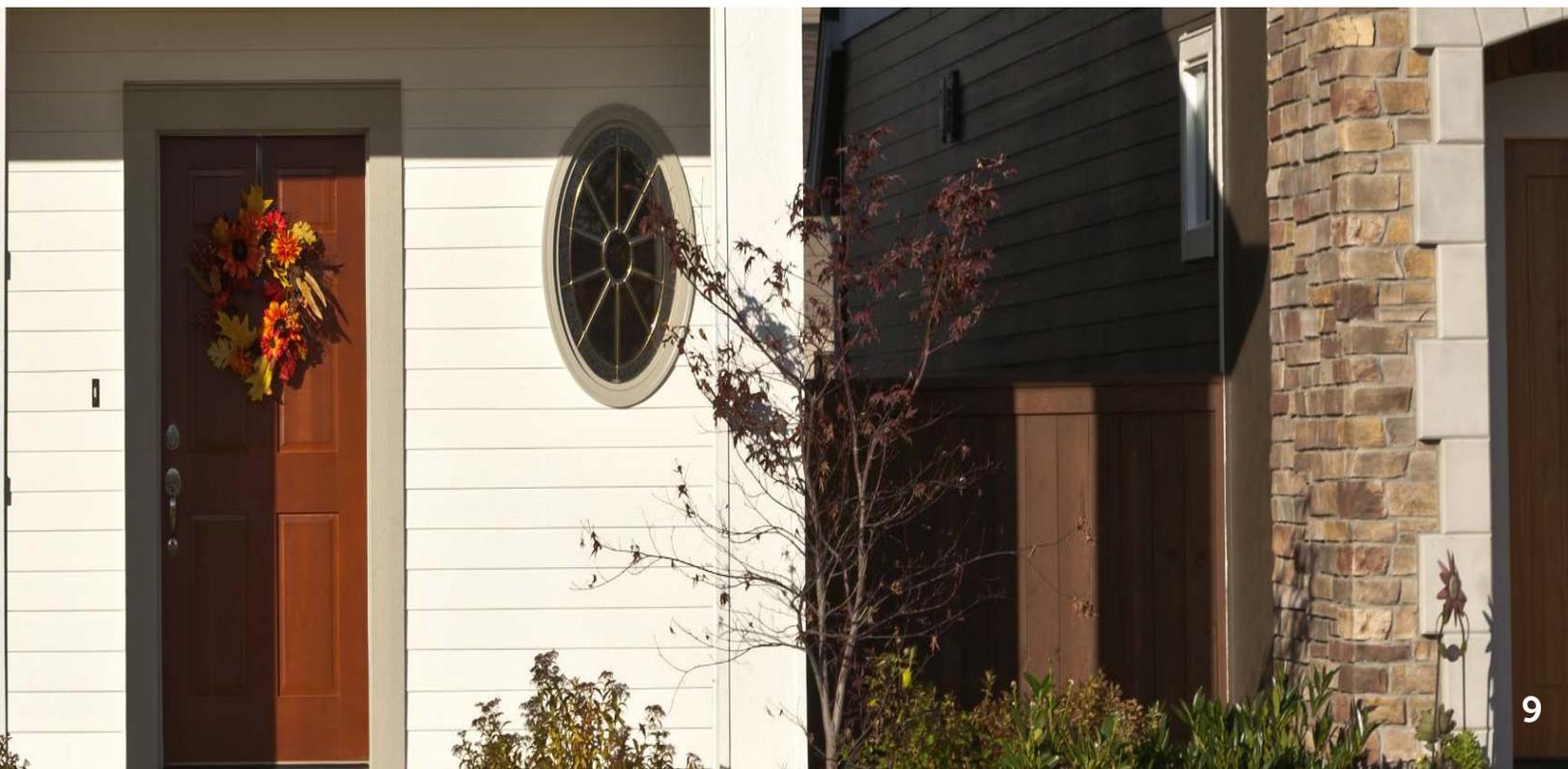
The Mortgage Broker Regulators' Council of Canada (MBRCC) and RECA's Mortgage Brokers' Advisory Committee (MBAC) researched disclosure rules across the country, along with documentation practices, service relationships with borrowers and lenders, and borrower information verification processes. Following that research, MBAC made a number of recommendations to Council

for revised standards of practice and Rule changes.

The research identified trends in the industry, including an increase in private lending, more required disclosures in other jurisdictions, and consumer-side mortgage fraud: and the proposed changes address these trends. The proposed changes also provide opportunities for building the industry's reputation through enhanced consumer protection and greater harmonization with other Canadian jurisdictions.

Your feedback is important. Council will consider all stakeholder input before deciding how to proceed.

Mortgage Brokerage Proposed Standards of Practice and Rule Changes Consultation Paper



RECA launches first commercial and property management specific re-licensing course



RECA launched the first commercial and property management specific re-licensing course Real Estate Update 2018 (Commercial/Property Management) on February 6. Real estate professionals who want to retain their authorization in commercial real estate or property management must complete the course prior to renewing in September 2018. **This includes all associates who trade in commercial real estate or provide property management services, and all real estate brokers and associate brokers.**

Real estate associates who do not have commercial or property management authorizations, or those wishing to drop those authorizations from their licence, do not have to complete this course.

Through industry consultations, surveys, and focus groups, professionals have told RECA they want more specialized, targeted education. In 2016-2017, residential and rural real estate professionals completed a re-licensing course for their sectors, and this year, it's commercial and property management's turn.

The Course

We estimate Real Estate Update 2018 (Commercial/Property Management) will take professionals 4-6 hours to complete. It's available online through your myRECA account. To access the course, go to the Education tab, select Course Catalogue from the left menu, and click enroll beside Real Estate Update 2018 (Commercial/Property Management). Once complete, myRECA will update your education status, allowing you to retain your commercial and property management authorizations after you renew in September.

You can complete the course at your own pace. It includes an introductory video and interactive activities.

This course will help you to better counsel your clients by giving you an understanding of commercial real estate valuation and the various financial analyses used to assess commercial real estate investment potential.

Subject matter experts for the course responded extremely favorably. Mark St. Pierre of Avison Young Real Estate Alberta said, "The material is greatly enhanced and will be much appreciated by individuals seeking an understanding of commercial real estate."

Chad Griffiths of NAI Commercial Edmonton agreed: "It is a remarkably well compiled & presented course. Years ago, I completed my Diploma in Urban Land Economics from UBC and wished there was a course like this one. Very well done! The explanation on cap rates was excellent. Probably the best explanation I've ever read on the topic."

[This is just the beginning](#)

In late-2018, RECA will launch a second commercial and property management Re-licensing Education Program course that builds on the information from this year's course. That follow-up course will be the Re-licensing Education Program course during the October 1, 2018-September 30, 2019 licensing period. Commercial and property management professionals, and real estate brokers and associate brokers, will have to complete the second course in order to retain their commercial and/or property management authorizations after the September 2019 renewal.



Keep everything: Mortgage brokerage document retention



If there's a group of people who understand how much paper is involved in securing financing, it's mortgage brokers. Applications, supporting documents, disclosures, service agreements, bank documents, oh my!

Every file has a lot of paper, but what do you keep? How long do you have to keep it? Does electronic storage count?

Why keep documents?

There's no better way to settle disputed memories than with something in writing. Memories fade and everybody makes mistakes, but a written record keeps everything and everyone on the same page.

Retaining files helps brokers deal with misconduct within the brokerage, satisfies brokerage accountants, makes RECA Trust Assurance and Practice Review Officers happy, and makes it easier to provide evidence in the event of a complaint.

It's also the law. Records need to be available at the brokerage's registered business office if requested by a RECA practice review officer or conduct review officer for the purposes of review or investigation.

What you need to keep

Short answer: everything.

Longer answer: keep all records created and received during a mortgage deal.

This includes all paper and electronic documents, including emails and texts between your brokerage, clients, other professionals, and lenders.

Even if a deal doesn't close, or you haven't reached the point of signing a service agreement with a potential client, keep every record up to that point.

You also need to keep general brokerage records including, but not limited to:

- corporate searches
- powers of attorney
- land title searches
- presentations made to prospective clients
- documents related to the underwriting process
- copies of any faxes or emails received or sent relating to the transaction
- credit bureau reports
- borrower and lender disclosure documents
- copies of all service agreements (Lender and Borrower Brokerage contracts) even though they may not have been accepted by the lender or borrower
- borrower application forms and borrowers' consents whether they resulted in deals or not
- letters of employment, notice of assessment and other documents to support the borrower's application
- feature sheets, offers to purchase, real estate appraisals and gift letters
- *Consumer Protection Act* cost of credit disclosure documents
- environmental, engineering and other professional reports
- progress, building or stage reports

- commitment letters and rejection communications
- mortgage administration agreements
- any notes made in day timers (electronic or otherwise)
- photocopies of all mortgage payments received
- trust account and general account information
- deposit slips, withdrawal slips and records related to internet banking operations
- reconciliations, trust ledgers and bank statements

What about storage?

The *Real Estate Act* Rules requires the brokerage to retain all records on closed and incomplete deals.

Try to have brokerage policies in place that ensure associates submit all their records to the brokerage in a timely manner. Access to records can affect deals in progress. If an associate is sick or otherwise unreachable and a lender demands a quick turnaround, it's up to the brokerage to have access to the necessary files to keep the deal moving forward.

Can storage be electronic?

Yes. Brokerage records can be paper or electronic, as long as the storage environment is secure and located in Alberta.

Questions to ask yourself about your electronic records:

- is the storage location and medium reliable?
- does the proposed system require users to identify themselves by username and password or biometric access?



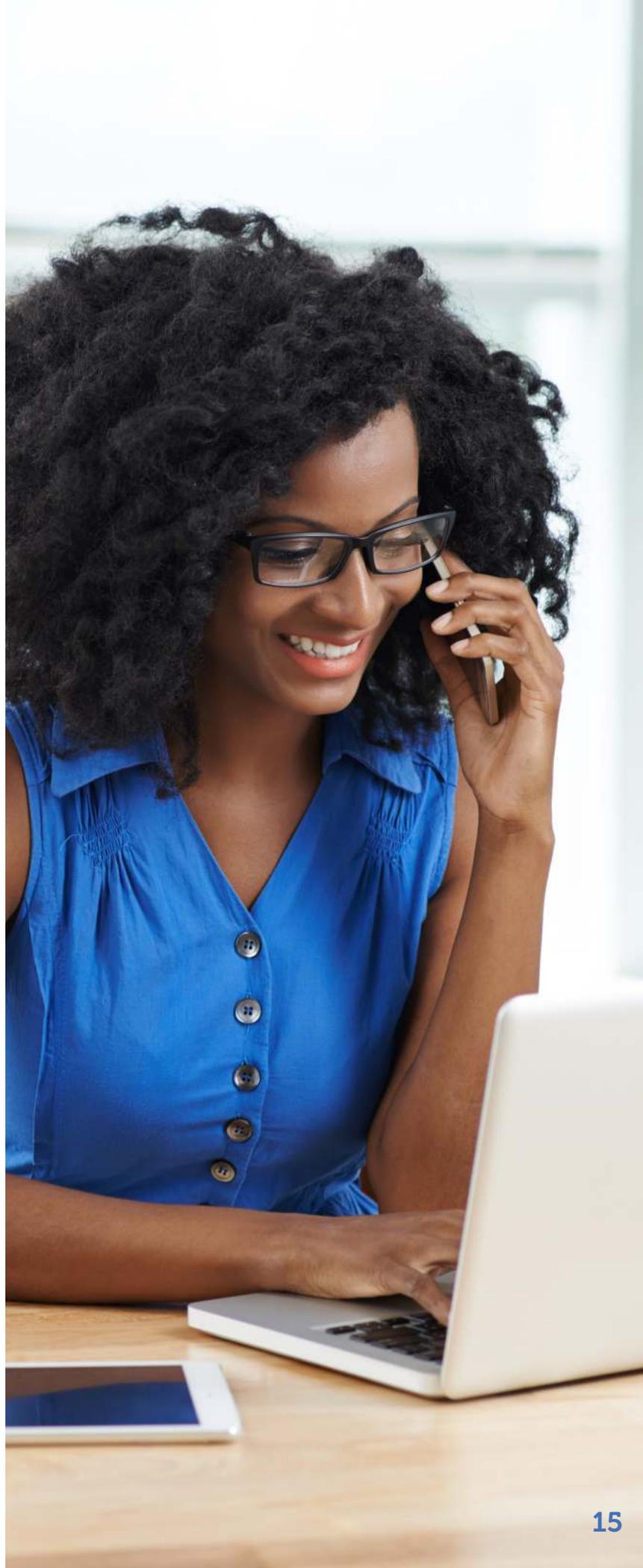
- does the proposed system maintain who created and modified the electronic record and the date of creation or modification?
- does the proposed system maintain a copy of the electronic record before modification?
- does the proposed system maintain who sent or received the electronic record and the date the electronic record was sent or received?
- is the information in electronic form maintained in the format in which it was created, sent or received, or in a format that does not materially alter the information of the original record in electronic form?
- does the electronic system maintain a copy of the computer program or of any other electronic devices to view, reproduce and print the documents in a timely manner?
- does the proposed system safeguard the document in electronic form by the software, password or security codes controlled by the broker?
- are the electronic records located in a physical premise in Alberta?
- if the electronic data is maintained by a third party supplier, what arrangements are there to safeguard and transfer the data to the brokerage in the event the third party supplier ceases business?
- are the premises where the electronic records are to be stored secure and are only accessible by the broker or by persons authorized by the broker?
- does the system provide the brokerage with the means to ensure all electronic records created in respect to a deal or potential deal, are stored together or are linked so as to create a complete record of all documents or records relating to the deal or potential deal?

How long should I store records?

RECA requires mortgage brokerages to retain mortgage deal records for a minimum of three years. However, if RECA has opened an investigation requiring your records, RECA may extend the required retention period.

You must keep any records relating to brokerage licensing indefinitely.

Brokers should have a record management plan that complies with the legislation, meets the needs of the brokerage, and ensures adequate maintenance of all documents and records. The brokerage must communicate its record keeping policies and procedures to all brokerage industry members and staff.



Advertising, social media, incentives and you



Social media, and the internet generally, have become some of the most frequently used advertising vehicles in many industries, including real estate and mortgage brokerage. Industry professionals turn to social media for its cost effectiveness and wide reach, but also because it creates opportunities to offer creative incentives to potential clients through their personal social media accounts.

Advertising is advertising, whether online or off, and the rules that apply to traditional advertising apply to online and social media advertising. But, how can a broker monitor every tweet, Insta, vid, or post?

Be proactive. Brokerages should have detailed and specific policies and procedures for social media advertising.

Your policies should include:

- who will advertise or communicate on behalf of the brokerage
- how to advertise on behalf of the brokerage
- the wording, logos or graphics used to advertise or communicate on behalf of the brokerage
- the consequences for non-compliance
- who will communicate all policies and procedures to the industry professionals and applicable brokerage staff

Advertising policies need to cover incentives

Incentives are a significant part of social media advertising in the industry.

An “incentive” is anything a brokerage advertises, communicates or offers to the public to attract business. Examples of incentives include travel miles, gifts, contests, gift certificates, games of chance, or anything else of value. Incentives used on an industry professional’s social media account are still incentives, and the brokerage must offer the incentive.

As you likely know, the ease of creating and posting advertising through social media has led to many associates seemingly offering incentives on their own, separate from their brokerage, without realizing that the incentive rules apply.

Remember: all advertising is on behalf of the brokerage. Industry professionals must not directly or indirectly, advertise, communicate or offer to any person their own incentives whose sole purpose is to attract business to them personally. This includes promoting likes and follows on social media platforms as part of an incentive to attract business.

Below are examples of incentives advertised through social media. All of these examples comply with RECA’s Advertising Guidelines, as long as they are brokerage incentives, and not individual incentives. The emphasis is on “us,” “our,” and “we.”

“Let us sell your house and we will give you free use of our moving van”

“If you hire us to find your next home, you’ll receive a \$500 gift certificate for ABC Depot”

“If you hire us to find you a new mortgage, we will donate \$200 to XYZ Charity”

“If you LIKE my brokerage’s Facebook page, you will be entered to win a gift certificate.”

Here are the same incentives, but with individual incentives. These do not comply with the Advertising Guidelines as they suggest the individual is offering the incentive, not the brokerage.

“Let me sell your house and I will give you free use of my moving van”

“If you hire me to find your next home, you’ll receive a \$500 gift certificate for ABC Depot”

“If you hire me to find you a new mortgage, I will donate \$200 to XYZ Charity”

“If you LIKE my page, you will be entered to win a gift certificate.”

Why is it important?

All industry member advertising is done on behalf of their brokerage, and that’s why brokers need to be aware of – and take responsibility for – all advertising. This includes industry member internet and social media advertising. Because monitoring every tweet or Facebook post made by associates is a monumental task, having a detailed, clear policy for the use of social media advertising by the brokerage’s industry professionals can go a long way.

The broker is ultimately responsible for all activities carried out on behalf of the brokerage, so it is vital that brokers ensure all associates’ social media advertising complies with the *Real Estate Act* Rules, privacy legislation, and brokerage policy.

Brokers need to talk to their associates about incentives. Let them know that these sorts of things might get clicks and likes, but if they aren’t brokerage incentives, they cannot offer them.

For more information about incentives, review the [Information Bulletin: Incentives](#).

News bytes

RECA Moved

On January 15, 2018, RECA opened for business in our new offices at 202, 1506 11 Avenue SW.

RECA's lease at our previous offices was ending, and Council took the opportunity to review options that would best serve us – and our industry – well into the future. After careful deliberation, Council approved the construction and purchase of a new building in the West Village in Calgary.

Long-term, the new office will save money, and help RECA enhance its operations and the services it provides.

Organizing for the Future: RECA Announces Organizational Changes

On January 15, RECA made organizational changes coinciding with the move to the new office.

These changes will position RECA to more effectively and efficiently communicate, ensure greater consistency of regulatory decision-making, and strengthen RECA education programs.

RECA's newly created Strategic Initiatives and External Relations (SIER) department will have primary responsibility for strategic initiatives and external-facing communications. This includes RECA's Real Estate and Mortgage Brokerage Practice Advisors, Communications (including consumer and industry services information officers), and Strategic Initiatives and Project Management, which includes our Condominium Manager Project Coordinator. Bringing these groups together within one department will help RECA's communication and external relations efforts be more proactive to changing situations and issues in the industry.

RECA's new Office of the Registrar centralizes RECA's regulatory functions, which creates better consistency in regulatory decision-making. This includes team members from RECA's licensing unit and RECA's former professional standards unit. Centralization of regulatory functions under the supervision of a Registrar is typical in many regulatory bodies as it helps ensure RECA makes efficient, effective, and consistent regulatory decisions throughout the organization.

RECA Education is now its own department, Education Programs, and is separate from the former Office of the Registrar. RECA Education offerings will continue to offer leading-edge, timely Re-Licensing Education Programs, and effective, up-to-date pre-licensing education.

And finally, RECA's Corporate Services department will continue to house Human Resources, Information Technology, and Accounting Service units, but will now also include General Counsel and Building Administration. Corporate Services contains RECA's business units that primarily serve the needs of RECA's internal stakeholders, and general counsel, which serves as corporate counsel, is more appropriately placed within this department.

RECA's 2016-2017 Annual Report

RECA's 2016-2017 Annual Report and 2016-2017 Financial Statements are now available on RECA's website.

Some Annual Report highlights include:

- summarized financial statements
- an update on strategic goals and accomplishments from the past year
- annual statistics on authorizations, education, complaints and investigations
- messages from the Council Chair and RECA's Executive Director

Send any questions about the 2016-2017 Annual Report or Financial statements to communications@reca.ca

See you there!

RECA is getting ready for another trade show season.

RECA is exhibiting at the upcoming Home and Garden Shows in Calgary and Edmonton. The Calgary show is March 1 - 4, at the BMO Centre, and the Edmonton show is March 22 – 25 at the Edmonton Expo Centre. This is an opportunity to meet face-to-face with consumers, talk to them about the importance of working with licensed industry members, and answer any questions they may have.



2017-2018 Council Members

KRISTA BOLTON

Appointed from the public

BONNY CLARKE, CHAIR-ELECT

Appointed from non-AREA industry members

BOBBI DAWSON

Appointed from the boards outside of Calgary and Edmonton

AMINA DEIAB

Appointed from the public

RAMEY DEMIAN

Appointed from the industrial, commercial and investment real estate sector

BILL KIRK

Appointed from the Calgary Real Estate Board

BRIAN KLINGSPON, CHAIR

Appointed from the REALTORS® Association of Edmonton

PHIL MCDOWELL

Appointed from the mortgage brokerage sector

STAN MILLS

Appointed from the boards outside of Calgary and Edmonton

ROBYN MOSER

Appointed from residential real estate industry members

ROBERT TELFORD

Appointed from the real estate appraisal sector

CHRISTINE ZWOZDESKY, PAST-CHAIR

Appointed from the property management sector

RECA Management

BOB MYRONIUK

Executive Director

KIRK BACON

Director of Strategic Initiatives & External Relations

DALE CAWSEY

Director of Corporate Services

JOSEPH FERNANDEZ

Director of Education Programs

JEAN FLANAGAN

General Counsel

CHARLES STEVENSON

Registrar

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



202, 1506 11 Avenue SW,
Calgary, AB T3C 0M9
Phone (403) 228-2954
Toll-free 1-888-425-2754
Fax (403) 228-3065
www.reca.ca