Real Estate Council Alberta

reca.ca

THE REGULATOR

OCTOBER 2024 | VOLUME 30. ISSUE 3

ARTICLES

All Licensees

WHAT'S HAPPENING AT RECA

RECA's modernized governance model consists of a Board of Directors and four Industry Councils representing each industry RECA regulates. This general summary includes the key activities of the Board and all Industry Councils over the last quarter.

2024/2025 Renewal Period

The number of licences RECA issues each year continues to grow.

Our fiscal year closed on September 30, and we have completed another successful renewal period. Currently RECA has 20,653 total licensees, the largest in history. This breaks down to a total of 16,763 real estate licensees 3,273 mortgage licensees and 617 condominium management licensees.

This compares to 18,886 total licences at the beginning of the 2023/2024 fiscal-year, which also saw an unprecedented level of growth. Comparing the same period this year, to last year, that marks about a 9% growth in licensees.

Rules Review Steering Committee Phase Three

RECA has committed to a comprehensive review of the *Real Estate Act* Rules. The Rules Review is broken into three stages to ensure stakeholders have opportunities to provide meaningful feedback The Phase Three consultation is currently underway.

This Phase involves a final stakeholder consultation on any potential issues that could arise should the final proposed Rule changes come into force. RECA is reaching out to stakeholders for feedback on any potential issues or unforeseen consequences that could arise from adopting these final recommended changes.

All brokerages are encouraged to review the Phase 3 Discussion Paper. We welcome your thoughtful feedback on how these Rule changes might impact your brokerage and practice, and any potential issues you see arising.

Brokerages can provide their feedback, in writing, to consultation@reca.ca until November 29, 2024.

The Rules Review is expected to conclude in 2024.

FINTRAC Requirements

New FINTRAC requirements have recently come into effect. Mortgage licensees need to be aware of your new obligations under this federal legislation. For more information, please visit reca.ca.

Private Lending Competencies Review

The Mortgage Broker Industry Council is reviewing private lending competencies as potential relicensing education for future renewal periods. This review aims to ensure that mortgage brokers are well-equipped with the necessary knowledge and skills to comply with regulatory requirements and provide high-quality service to your clients.

Amendments to Condominium Management Competencies

The Residential Property Manager Industry Council has completed its comprehensive review of condominium manager education requirements. Thank you to everyone who attended the Town Hall in August where we discussed the condominium competencies. The Industry Council is appreciative of the meaningful feedback they received to validate the review of the competencies.

To allow current learners to complete their existing courses, and to allow course providers to develop new courses, aligned to the updated examination blueprints, the new blueprints will be implemented on January 6, 2025.

We are confident that these changes will enhance education within the condominium management sector, and we appreciate all the positive support that was received from industry throughout the review process.

Update on Condominium Management Graduated Licensing Program

In October 2023, the Residential Property Manager Industry Council approved a Graduated Licensing Program for condominium managers. The program now allows new condominium managers to engage in certain restricted activities under supervision (Level 1 or Level 2 Licence) while completing their pre-licensing education. The program was introduced to address perceived barriers to entry, and difficulties attracting new condominium managers.

About a year ago, when the program for condominium managers was introduced, 144 individuals who had not yet completed their education were granted either a Level 1 or Level 2 licence. Out of these, 30 are currently registered with a brokerage, and 21 have successfully completed the program. Additionally, 34 new licensees have enrolled in the program, with nine of them having completed it. In total, 31 individuals have completed the program since its inception.

UPDATE ON UTILIZATION OF UNEXPECTED REVENUE SURPLUS

Alberta's regulated real estate industries have experienced unprecedented growth over the last few years. This growth is due to an unforeseen increase of new licensees and indiviudals moving from across the country to take advantage of Alberta's favourable economic climate. As a not-for-profit organization, RECA is focused on ensuring licensing revenue is sufficient only for operations to meet our mandate. This volatile and transient surge in active licensees has resulted in an unplanned revenue surplus, presenting a unique opportunity to make financially prudent decisions that benefit all stakeholders.

Fee Credit

RECA's Board of Directors approved and issued a $250 fee credit for all licensees who renewed their licence for the 2024/2025 year. To qualify for the credit, licensees must have renewed their licence by the September 30, 2024, deadline.

Prepayment of Building Mortgage

After careful consideration, the RECA Board has completed the prepayment of the RECA building mortgage. This decision underscores our commitment to sound financial management and ensuring the long-term sustainability of our operations.

The RECA Board of Directors, in collaboration with the Finance and Audit Committee, identified several compelling reasons for the mortgage prepayment:

- Savings of approximately $5 million in interest payments: by paying off the mortgage early, RECA stands to save a substantial amount of operating revenue that would otherwise be spent on interest. These savings can be redirected towards our services, including enhancing consumer awareness.

- Reduced future operating costs: future operating costs will no longer include the cost burden of the mortgage principal and interest, allowing RECA to remain conservative with registration and other fees as we move forward. In addition, revenues generated from tenants in the building provide reliable sources of revenue that can also be used to keep RECA's costs (and fees) down.

This decision strengthens RECA's financial position, provides greater flexibility to fund future initiatives and ensures we can continue our mandate to protect consumers while offering affordable licensing fees.

Real Estate and Mortgage

NAVIGATING BRIDGE LOAN FINANCING IN ALBERTA

by Andrew Brainard, RECA Investigator

Bridge loans are a financial tool used in real estate transactions, which offer short-term financing to bridge the gap between purchasing a new property and selling an existing one. While these loans provide legitimate benefits, they may also be used as a vehicle for fraud.

Licensee Education

RECA has recently investigated several instances where licensees failed to identify the red flags of fraudulent bridge loan financing schemes and have become unwitting participants. For licensees, understanding bridge loan financing is essential to avoid potential breaches of the *Real Estate Act* and participating in fraud.

Legitimate and Fraudulent Use

Legitimate bridge loans serve as temporary solutions for homeowners caught in transition between purchasing a new home and selling an existing one. Generally, these loans are secured by the borrower's existing property and are designed for short durations, typically six months to a year. Their core function is to "bridge" the financial gap between two property transactions.

Fraudulent bridge loan practices can damage market integrity and erode consumer trust in the industry These schemes often involve dishonest representations, concealment of crucial information, and the creation of false documents intended to deceive lenders, borrowers, and licensees.

Understanding Bridge Loan Financing

1. If bridge loans are presented as a means for borrowers to obtain funds without informing their new mortgage lender, thereby skewing income-to-debt ratios—this is a clear indicator of fraud.
2. Complex transaction structures and loan terms can make it hard to determine the true risks associated with bridge loans, allowing fraudulent activities to go undetected. This lack of transparency is often exploited to perpetrate fraud. Licensees have a duty to ensure you, and your clients understand the terms and conditions of mortgage deals.
3. All licensees involved in real estate or mortgage transactions should keep thorough records of documents and communications. This will help identify fraud red flags and any possible process breaks that may have occurred. Verification of client identities, financial and employment information are essential steps.
4. Typically, bridge loans are secured by registering the loan on the property's title. This registration provides lenders with reassurance of the loan's validity and security, supported by the property's legal title. When dealing with bridge loan financing, take the extra step of checking to ensure the loan will be registered. Remember, a promissory note is insufficient to protect the lenders and your borrower client's interests.
5. Fraud schemes often pressure borrowers into accepting loans with unrealistic repayment structures or offering large profits. Learn to recognize these tactics as red flags for potential fraud.

Licensees have a legal obligation

Recent RECA investigations identified licensees who engaged in bridge loan financing schemes due to the promise of unrealistic returns on their investments. Their reckless behavior and failure to report the bridge loan fraud scheme to RECA contributed to continuation of the fraud, allowing dozens of unwitting consumers to be victimized.

Remember, licensees have a legal obligation and ethical responsibility to report any fraudulent or unlicensed activities to RECA. Bridge loan financing schemes often develop into other frauds, such as Ponzi schemes, and could impact the lives of hundreds of consumers. Licensee cooperation with both RECA and law enforcement investigations is vital to maintaining the integrity of the industry and protecting consumers.

Compliance with Regulatory Standards

The *Real Estate Act* (s.17) outlines that dealing in mortgages without the appropriate licence constitutes a serious offense. Mortgage licensees are competently educated and trained to provide specific mortgage services to consumers. Individuals who only possess authorization to trade in real estate cannot deal in mortgages, including administering bridge loans financing.

Conclusion

Bridge loans fulfill a legitimate purpose in Alberta's real estate market by providing essential short-term financing solutions for qualified borrowers. However, due to their inherent complexity, they can also open doors for fraudulent activities. Licensees should thoroughly understand both the legitimate and fraudulent characteristics of bridge loans. Through consistent diligence and ethical and regulatory practices, the advantages of bridge loan financing can be realized while avoiding anyone falling victim to fraud.

For more information, please see the Mortgage Fraud Tip sheet or reach out to info@reca.ca.

ENSURING CLIENTS UNDERSTAND THE RISKS OF PRE-APPROVALS

By Gary Siegle, Regulatory Compliance Advisor, Mortgage

Alberta's competitive real estate market has recently seen some consumers relying on pre-approvals to make offers without a financing condition. While this strategy can strengthen a buyer's position in a competitive situation, it also comes with significant risks that your home buyer clients need to be made aware of.

The Growing Trend of Pre-Approval Reliance

In markets with rising demand and limited inventory, buyers are often motivated to present the most attractive offer possible. Your clients may feel it advantageous to use their pre-approval status to submit offers without a financing condition. You or your clients may suggest using this approach to make offers more appealing to sellers, who might prefer a deal with fewer conditions. Unfortunately, we have seen a growing number of deals collapsing and deposits being forfeited in situations where a financing condition has been waived. We believe this is because many consumers do not understand what a pre-approval entails.

Pre-Approval Offers No Guarantees

Mortgage brokers and real estate licensees should be clear with their clients that a pre-approval does not guarantee that their final loan will be approved.

Deals can and have fallen apart where a buyer had a pre-approval, but their final financing could not be secured. **Please ensure you are explaining the realities of a pre-approval to your client, so that there are no misunderstandings.**

Differences in Pre-Approval Processes

Pre-approval processes can vary significantly depending on the mortgage broker. Some brokers provide a simple rate hold, while others conduct a more thorough pre-approval, involving document collection and preliminary underwriting. Regardless of the approach, there are inherent risks that your clients need to understand.

Their final loan approval depends on multiple factors including:

Property-Specific Considerations: the ultimate approval of a mortgage relies not just on the borrower's qualifications but also on the specific property being purchased, which is unknown at the pre-approval stage. The property itself must meet certain criteria, and its value must be validated by the lender. Buyers should be aware that an offer above market value may not be supported by an appraisal when they apply for the mortgage loan. If they have placed an unconditional offer, they will need to have access to extra funds to increase the downpayment for any amount that exceeds appraised value.

Changes in Buyer's Financial Position: Any changes to the borrower's financial situation between the time of pre-approval and the final offer can significantly impact the lender's decision. This includes changes in employment, income, debt levels, or even the borrower's credit score.

Mortgage Brokers and Consumer Education

While mortgage brokers are aware of the tentative nature of pre-approvals, this understanding is not always successfully communicated to consumers. As a mortgage broker, you need to ensure that your clients fully understand the limitations of their pre-approval and the risks involved in making an offer without a financing condition if they choose to do so.

In a competitive market, the pressure to present an attractive offer can be strong, but it should not come at the cost of financial security. Clients need to be reminded of the multiple factors that may affected their pre-approval so that they can protect themselves from any disappointment or financial loss that could arise from a failed deal. It is RECA's duty to protect both consumers and the integrity of the real estate industry. Ensuring your clients are fully informed of the risks of a mortgage pre-approval accomplishes both goals and ultimately ensures but industry and consumer interests are protected.

As an extra means to ensure your client understand the decision, and to protect yourself in the event of a dispute, documenting your discussion is advised

If you are a broker or broker delegate and have any questions about pre-approvals or regulatory related mortgage advice , please reach out to gsiegle@reca.ca.

WE'RE HERE TO HELP

RECA's Regulatory Compliance Advisors are here to offer advice to real estate, mortgage, property and condominium management brokers and broker delegates. If there is a question or situation regarding the *Real Estate Act* or the Rules which you are unsure of, please contact us to discuss your specific situation.

Real estate & condominium management advice for brokers and delegates:

Doug Dixon ddixon@reca.ca, 403-685-7920

Mortgage brokerage advice for brokers and delegates:

Gary Siegle gsiegle@reca.ca, 403-685-7925

NEWS BYTE – DO YOU KNOW YOUR OBLIGATIONS UNDER THE NEW FINTRAC LEGISLATION?

FINTRAC has now updated its guidance following regulatory amendments that came into force on October 11, 2024.

We want to ensure all RECA mortgage licensees are aware of their new obligations under this federal legislation.

New obligations for the mortgage industry

As of October 11, 2024, businesses and professionals in the mortgage sector, specifically mortgage administrators, brokers and lenders, have updated anti-money laundering and anti-terrorist financing (AML/ATF) obligations, as follows:

- developing an AML/ATF compliance program;
- applying customer due diligence measures;
- keeping certain records;
- report certain transactions to FINTRAC; and
- following ministerial directives and transaction restrictions.

Resources

- Compliance obligations: mortgage administrators, brokers and lenders.
- Self-Assessment Tool for Mortgage Sector.

Submit reports to FINTRAC

Licensees in RECA's mortgage sector are now required to submit suspicious transaction reports (STR), terrorist property reports (TPR), large cash transaction reports (LCTR) and large virtual currency transaction reports (LVCTR) to FINTRAC.

Specifics

Reporting entities with reports to submit can send requests for access to the FINTRAC Web Reporting System by email to F2R@fintrac-canafe.gc.ca.

Once enrolled, you should be able to submit STRs using the FINTRAC Web Reporting System or, if you have a higher volume of reports, register to FINTRAC API report submission to submit STRs, LCTRs and LVCTRs.

Backlogs of reports incurred as a result of the availability of FINTRAC systems must be maintained and reported to FINTRAC once you obtain access to FINTRAC Web Reporting System and the report type is available in the system. For more information visit: Implementing online systems.

For questions, please contact FINTRAC at 1-866-346-8722 (toll-free) or lignesdirectrices@fintrac-canafe.gc.ca.

RECA licensees are encouraged to stay up-to-date on FINTRAC information by subscribing to the FINTRAC Mailing List.

Condo

ENSURING SMOOTH TRANSITIONS IN CONDOMINIUM MANAGEMENT

By Doug Dixon, Regulatory Compliance Manager – Condominium Management

When a condominium management service agreement ends, it's crucial for the outgoing management to cooperate with the new management team. This ensures a smooth transition and continued service quality for the condominium corporation and the owners.

Key Responsibilities of Outgoing Condominium Manager

1. Prior to the Termination Date: The outgoing condominium management brokerage should cooperate with the incoming management company in providing information needed to support a successful transition. This would include:
   - contact information for the unit owners
   - pre-authorized debit (PAD) agreements if appropriate so that contribution withdrawals can continue seamlessly
   - a list of third-party service providers and utilities
   - at a minimum the most recent financial statements

2. Transfer of Funds: The outgoing condominium management brokerage must transfer control of the condominium corporation's funds within 30 days of the termination date. Ideally, most funds should be transferred within 7-10 days. This can be done by disbursing the funds to the condominium corporation or transferring them to the new condominium management brokerage. **The outgoing brokerage can keep enough funds to cover outstanding invoices.**

3. Return of Property and Documents: All property and documents belonging to the condominium corporation must be returned at no charge. The outgoing condominium manager should keep copies of documents related to their services for the last three years.

Cooperation is Important

Cooperation between the outgoing and incoming condominium management teams is essential for several reasons:

- Continuity of Service: ensures that there is no disruption in condominium management services provided to the condominium corporation
- Efficiency: helps the new condominium manager to quickly take over and start working effectively
- Compliance: ensures both incoming and outgoing condominium managers adhere to the guidelines and timelines set out in their service agreements, avoiding any legal or financial issues

Consumer Protection

For individuals who own condominiums, cooperation between incoming and outgoing condominium management teams is crucial for consumer protection.

Cooperation between the condominium management teams facilitates:

- Financial Security: timely transfer of funds ensures that the condominium corporation's finances are secure and accessible and that the corporation's financial obligations are kept current.

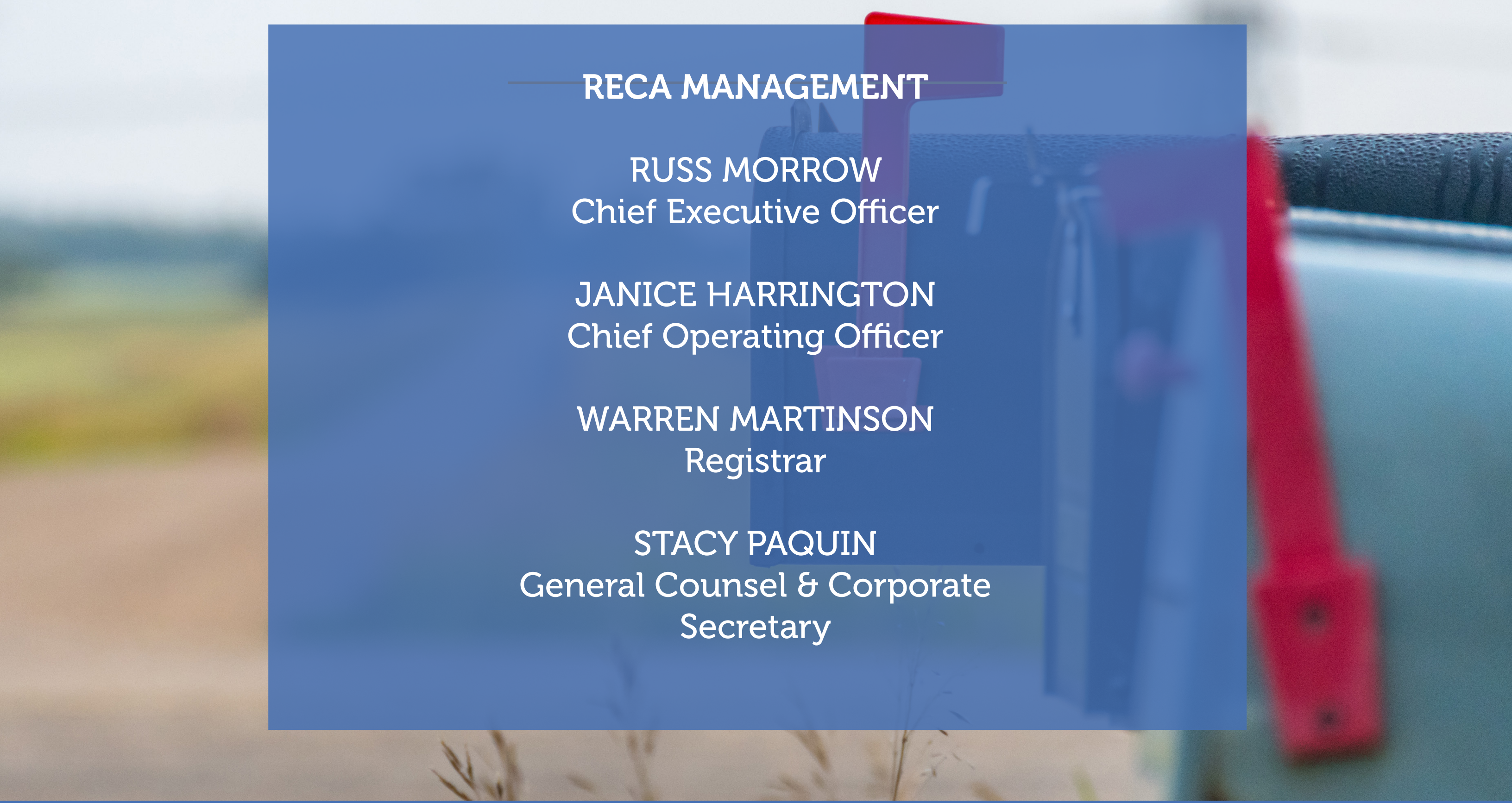
- Access to Information: returning all property and documents ensures that the new condominium management team has all the necessary information to continue providing services without interruption. This includes maintenance records, financial statements, and other important documents.

- Trust and Transparency: cooperation fosters trust and transparency between the condominium owners and the condominium management teams as well as for the condominium management industry in general. This trust reassures owners that their interests are being safeguarded by condominium management companies.

A smooth transition between condominium managers is beneficial for everyone involved. By cooperating fully, outgoing condominium managers help ensure that the new condominium manager can hit the ground running and continue to provide excellent service to the condominium corporation. This cooperation is not only essential for operational efficiency but also for protecting the interests and investments of condominium owners. Overall, this supports trust of the condominium management industry as a whole.

For more information, please see the Termination of Service Agreement – Condominium Management Information Bulletin.

If you are a condominium brokerage in the midst of transition, please reach out if you have any questions on this topic or other topics related .to condominium management to ddixon@reca.ca.



RECA MANAGEMENT

RUSS MORROW
Chief Executive Officer

JANICE HARRINGTON
Chief Operating Officer

WARREN MARTINSON
Registrar

STACY PAQUIN
General Counsel & Corporate Secretary

CONTACT RECA

Phone (403) 228-2954
Toll-free 1-888-425-2754
Fax (403) 228-3065

GENERAL QUESTIONS

Call or email an Information Officer at: info@reca.ca

BROKER ADVICE

Call or email one of our Compliance Advisors:

Mortgage: gsielgle@reca.ca

Real Estate: ktzenov@reca.ca

Condo: ddixon@reca.ca

CONTACT RECA'S BOARD OF DIRECTORS OR INDUSTRY COUNCIL MEMBERS DIRECTLY

Board of Directors: board@reca.ab.ca

Mortgage Broker Industry Council: mortgageic@reca.ab.ca

Residential Real Estate Broker Industry Council: resic@reca.ab.ca

Residential Property Manager Industry Council: respmic@reca.ab.ca

Commercial Real Estate Broker and Commercial Property Manager Industry Council: commic@reca.ab.ca

WATCH RECA.CA FOR CURRENT ENGAGEMENT EVENTS, BROKER FORUMS, AND MORE.