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**REAL ESTATE  
COUNCIL  
OF ALBERTA**



# Message From Council

## Kevin Clark, Chair

Greetings from all the members of the new Council for 2014. As Chair it is an exciting time to be part of this team; the industry is changing, consumer expectations are changing and we are all working hard for the continued success, strength and professionalism of this great industry.

May I begin by taking a moment to thank Gordon Graydon for his three-years of service on Council. Gordon was appointed to Council by the Minister of Service Alberta in late 2010, and his term ended on October 31, 2013. Gordon was an important part of Council and his solid voice of reason will be missed by all of us.

Looking ahead through 2014, the work for Council is very clear. We are mid-way through our 2011-2016 Strategic Plan. In that plan, we set out very clearly that RECA is committed to advancing the professionalism of the industry; to improving the preparation for those coming into our industry disciplines; to promoting quality standards and continuous performance improvement; and building awareness and recognition of RECA's self-regulatory value.

Beyond just calling ourselves a Profession, my focus during 2014 is to advance the discussion of what professionalism may look like. As Chair, I will be devoting as much of my time as I can to getting out and speaking to and with as many industry members as possible, in all sectors and in all parts of the province. My objective in doing this is to provoke our individual ('self'-regulating) thinking about what being a Professional may look like and how professional behaviour may manifest itself.

To act professionally is not about a degree on the wall, a certification or even calling oneself a Professional. Acting professionally is more about earning the trust of consumers and other industry members. It is about doing the right thing, not because someone is watching or because it is spelled out in legislation, but simply because it is the right thing. It is also about taking responsibility for our actions and self-regulating our behaviour.

Of course, advancing professionalism requires more than just speaking about what it means, it also requires action. Later this year, section 43 of the Rules is changing to reflect mandatory written service agreements with clients in residential real estate, property management and mortgage brokerage. This rule change creates the opportunity for licensees to make it that much clearer for consumers to know what to expect from their working relationships with industry members. 'Trust' grows 'at the intersection of expectation and reality.' The clearer the expectation of the consumer, the greater the opportunity for meeting that expectation with reality and thus advancing trust and good business relationships.

Just last week, practitioners in residential real estate started using relationship forms with new mandatory plain language content, and a new mandatory RECA Consumer Relationships Guide. The new content and new Guide are clearer for consumers, lessening the chance of false expectations and increasing the opportunity to advance trust between the industry member and the consumer with whom they work.



RECA continues to develop pre-licensing and re-licensing education programs that enrich industry members' knowledge and understanding of their obligations to consumers and the opportunities that their licence affords. These programs provide information on current issues and changing industry standards. Real estate appraisers currently have a REP course that must be completed prior to September 30 in order to renew their licence and soon RECA will launch a REP course for real estate industry members. RECA will also launch the revised *Real Estate Brokers Program* later this Spring, and will then begin developing a corresponding *Mortgage Brokers Program*.

Throughout all of these activities, Council welcomes feedback from industry members in the hope that having open doors of communication further contributes to the professionalism we all want to see. Do know that plans can be adjusted if necessary, but we are committed to the responsibility of our mandate to protect consumers by setting and enforcing standards of conduct and providing services that enhance and improve the integrity of the industry.

Our licence gives us the right to work as hard as we choose within an industry without glass ceilings; with gender, nationality and age equality in one of the most privileged countries in the world. I hope 2014 allows you opportunity to use that licence to its fullest potential without unnecessarily getting in your way.



# Out of Province Brokerages

Changes in the real estate and mortgage brokerage sectors in the past two or three years have led to an increase in the number of individuals and brokerages that are licensed in Alberta, but who are also licensed in other provinces and have offices in other provinces.

Are you the broker for an out of province brokerage? Are you wanting to become the broker for an out of province brokerage? Here are some things to remember about trust accounts and record-keeping.

All Alberta brokerages must have a registered business office in Alberta. That registered business office will be:

- The address for service for the brokerage and all industry members registered with the brokerage; and,
- The address at which the Real Estate Council of Alberta (RECA) will review records when necessary.

An Alberta brokerage may have more than one office in Alberta, but the brokerage must still designate a single office as its registered business office.

## **Where are trust accounts held for out of province brokerages?**

All Alberta brokerages must deposit trust money into an Alberta trust account. If the trust money pertains to an Alberta real estate transaction, the money must be held in an Alberta trust account. Recently, RECA received a request from a national real estate franchise, which has an Alberta brokerage, requesting

permission to hold trust funds from transactions in all provinces in which they operate in a single trust account (outside of Alberta). RECA refused this request. Likewise, an Alberta brokerage's trust account can only hold trust funds from the brokerage's transactions in Alberta.

## **What about records?**

All documents and records related to real estate transactions and mortgage deals must be maintained or made available at the brokerage's registered business office in Alberta so that RECA can review them.

## **Where can electronic records be kept?**

Brokerages are allowed to convert their paper records into electronic format, which can make storage easier. RECA has the authority to review a brokerage's records and will do so periodically. If records have been converted for electronic storage, the brokerage's registered business office must also have a computer or other device available so that RECA can access and review the records while at the office.

In the rare situation RECA needs to seize records from a brokerage, that seizure may include any device on which the records have been stored (computers, etc.). When brokerages are using cloud storage solutions, it's important that servers for those solutions be located in Alberta. RECA doesn't have the authority to seize records outside of Alberta.



If an Alberta brokerage stores records outside of Alberta, using an out of province province server, RECA wouldn't be able to seize records if and when it becomes necessary.

RECA recognizes that in the global economy – and with technology – it is easier for industry professionals to operate in multiple jurisdictions, and RECA has no issues with them doing so. Industry members that are operating in multiple places must simply ensure they're following the laws of the place in which they're operating when they're operating there. When in Alberta, Alberta real estate legislation applies.



# Non-Exclusive Buyer Representation Agreements

When written service agreements become mandatory for all client relationships in residential real estate on July 1, 2014, what is a real estate professional supposed to do when working with a buyer who doesn't want to enter into an exclusive relationship? The answer is simple: choose a non-exclusive buyer representation agreement, samples of which will be available on the Real Estate Council of Alberta's website before the end of February.

RECA's non-exclusive buyer representation agreements will provide a wide set of options for residential real estate practitioners and the buyers they're working with.

There are two non-exclusive agreement options:

- No fee payable by the buyer. You may not get paid. The buyer authorizes their brokerage to seek payment from the seller or the seller's brokerage. This is how it's done now with verbal or implied buyer brokerage agreement.
- Fee payable by the buyer. You will get paid. The agreement sets out a fee. The buyer authorizes you to seek payment from the seller or the seller's brokerage. The buyer will pay the fee or portion of it if it is not fully paid by a seller or seller's brokerage.

Additionally, these two options will have designated agency and common law agency versions for a total of four non-exclusive buyer representation agreements from which industry professionals will be able to choose.

As residential real estate practitioners transition to written service agreements for all client relationships, these non-exclusive forms will be an important option for them and consumers.



# So You're Opening a Brokerage.....

## Tips for Application Success

The Real Estate Council of Alberta (RECA) created the Brokerage Licensing Administrator position in late 2013 to enhance level of services for brokers and broker applicants. One of the most important roles for this new position is to proactively resolve issues that may affect the timeliness of a broker or brokerage application.

Understanding RECA's regulatory licensing objectives is key to a smooth and successful process. So what are those objectives? The overall objective behind the licensing process is to review the suitability of the broker, or any shareholders, directors, partners or officials associated with the brokerage to ensure:

- Licensing them will not place the public at risk;
- Licensing them will not harm the integrity of the industry or bring the industry into disrepute;
- They are not subject to a lifetime ban;
- They meet all the education and experience requirements; and,
- Where the broker does not have ownership control, the broker is able to exercise his or her broker responsibilities.

RECA's commitment to these regulatory objectives drives its requirement for current, accurate and complete information throughout the application process. When RECA approves a brokerage, it isn't a rubber-stamp process. RECA needs to carefully review all documents and background provided. This takes time and broker/brokerage applicants need to understand that even when all documents are perfectly completed and submitted, approval doesn't happen overnight.

RECA's Brokerage Licensing Administrator has these tips for individuals navigating that process. Following these tips will help RECA approve your brokerage application in a timely manner.

- 1) **Review RECA's Guide to Opening a Brokerage.** Before starting the application process, make sure you've reviewed RECA's [Guide to Opening a Brokerage](#). It contains comprehensive information about the application process, and has a helpful checklist for broker applicants. Use that checklist to help you ensure your application process goes as smoothly and quickly as possible. If you have questions, contact the Brokerage Licensing Administrator at [brokerinfo@reca.ca](mailto:brokerinfo@reca.ca).
- 2) **Use the correct forms.** The application forms differ based on whether the broker is going to be a broker/owner or just the broker. Make sure you submit the right application to RECA for processing.
- 3) **Submit your forms and documentation from your email address or fax number.** When the broker is fully engaged and involved in all aspects of opening the brokerage (including submitting documents, making inquiries, etc.), the process is smoother and the brokerage can be opened that much quicker. RECA's policy requires the broker applicant to submit the applications and supporting documentation to RECA. Likewise, if an applicant wants to know the status of their application, only that applicant can get that information from RECA. This doesn't mean others can't be involved in the process and help the broker, but the broker must be the focal point of the application process with RECA.



- 4) **Submit all documents at the same time.** Once you've completed your application and gathered the required documents, submit everything to RECA at the same time. RECA staff respond each time they receive a document and they track each document's receipt. When documents are submitted separately, it takes longer for staff to review and respond, and it will slow down processing your application.
- 5) **Submit documents once.** Sometimes RECA staff need additional information or documentation from applicants. When applicants with the requested info, they sometimes also re-send previously submitted documents. If you've already submitted something to RECA, don't submit it again unless you are asked to. If you're submitting the same documents, multiple times – RECA staff will take that much longer to review and process.
- 6) **Provide current documents.** Applications have to be sent to RECA within 30 days of when the applicant had the form commissioned. Likewise, certain Registries Documents must be submitted within 30 days of the date on the document. If you send stale-dated documents, RECA will reject them and you'll have to gather and re-submit current documents. This is one reason it helps to submit all of your documents at the same time. If while you're submitting additional documents, one document becomes older than 30 days – you may have to resubmit, further delaying the process. If you send stale-dated documents, RECA will reject them and you'll have to gather and re-submit current documents.
- 7) **Carefully review your completed application before submission.** It isn't unusual for a broker applicant to miss one of the fields or questions on the application form. If RECA staff review it and finds information is missing or you haven't answered all of the questions, this can slow down the brokerage application process.

Please don't hesitate to contact the Brokerage Licensing Administrator with any questions you have about the process. An ounce of prevention is worth a pound of cure.



# Online Transaction Document Management

## Consumers Need to Know

Alberta consumers need to know where and how their information and transaction files are going to be stored; and they need to be given the opportunity to say no if they're not comfortable with it.

Elsewhere in this newsletter we talked about the need for brokerages, which want to use electronic document/record storage, to ensure their storage solutions have servers located in Alberta, but what about individual industry professionals who use online transaction document management solutions?

There's no doubt these systems make it easier for industry professionals to provide service to their clients. They assist with paperless real estate transactions and e-signatures, plus they provide industry professionals with the ability to store, access and share transaction documents.

While the standard Alberta Real Estate Association (AREA) Buyer Representation and Seller Representation Agreements (effective February 4, 2014) contain a clause through which clients provide their consent for the brokerage to collect, maintain and disclose the client's personal information, the agreements don't provide any details on how that information is going to be maintained or where.

Storing a completed "Offer to Purchase" or written service agreement, for example, in a filing cabinet in your office isn't the same as providing that document to a cloud-based document management service. Some consumers may feel differently about the security of their personal information if they

were to find out it is going to be stored within or accessed through an online document storage solution.

Until the point when an individual industry professional provides records to his or her brokerage (i.e. when a deposit cheque has been submitted or when an offer is rejected with no counter-offer), it is up to the individual industry member, on behalf of their brokerage, to ensure he or she maintains the client's information, transaction details, etc. in a manner in which the client is comfortable; keeping in mind, of course, that they're doing so – not as individuals – but rather on behalf of the brokerage they're registered with. While online storage and the privacy or security concerns associated with it may not bother some clients, it may bother others.

The wording in the standard buyer and seller representation agreements about maintaining personal information is not enough for real estate professionals who are using online document management software, such as reprep® or DropBox. Professionals who are using these types of services need to bring it to their client's attention; simply having them sign the agreement without a discussion about this particular issue isn't enough.



# 2012-2013 Annual Report Now Available

The Real Estate Council of Alberta's (RECA) 2012-2013 [Annual Report](#) is now available on the RECA website. Report highlights include summarized financial statements; yearly authorization, complaint, conduct review and education statistics; and, reports on the year's activity from the Council Chair and the Executive Director.

RECA encourages all industry professionals to review the Annual Report. Among the highlights in this year's report is the slight increase in authorization numbers from September 30, 2012 to September 30, 2013; the fact that the number of open files within the Professional Standards Unit continues to drop; and, there was no compensation paid out from the Real Estate Assurance Fund this year.

Also available are RECA's complete [Audited Financial Statements](#).

As always, if you have questions or concerns about either of these publications do not hesitate to contact RECA at [communications@reca.ca](mailto:communications@reca.ca).



# New Council Member Appointed

By the Minister of Service Alberta

The Real Estate Council of Alberta (RECA) is pleased to welcome a new public member to the Council table. Tony Dhaliwal has been appointed to Council by the then-Minister of Service Alberta, the Honourable Manmeet Bhullar.

Mr. Dhaliwal has more than nine years of experience in the oil and gas industry, including positions in the public and private sector, conducting royalty audits and analyzing Canadian oil and gas market activity. Mr. Dhaliwal has a Bachelor of Science in business information systems as well as a certificate in petroleum accounting.

Mr. Dhaliwal began his three-year term on Council on November 1, 2013.

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## Consumer Trade Shows Coming Up

For the second year in a row, the Real Estate Council of Alberta (RECA) will be an exhibitor at the Home and Garden Shows in Calgary and Edmonton. The [Calgary](#) show takes place February 27-March 2 at the BMO Centre and the [Edmonton](#) show is March 20-23 at the Expo Centre in Edmonton. Stop by the RECA booth and say hi, ask questions and find out why RECA attends consumer trade shows.

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# myRECA

Coming Soon

<http://www.myreca.ca/>



## **2013-2014 Council Members**

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KRISTA BOLTON  
Appointed from the public

BILL BUTERMAN, PAST-CHAIR  
Appointed from non-AREA industry members

KEVIN CLARK, CHAIR  
Appointed from residential real estate industry members

TONY DHALIWAL  
Appointed from the public

JOHN FARMER  
Appointed from the real estate appraisal sector

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

PAT KELLY  
Appointed from the mortgage brokerage sector

BRIAN KLINGSPON  
Appointed from the REALTORS® Association of Edmonton

ANGELA KOLODY  
Appointed from the boards outside of Calgary and Edmonton

STAN KUSHNER  
Appointed from the Calgary Real Estate Board

DALE RUSSELL  
Appointed from the boards outside of Calgary and Edmonton

CHRISTINE ZWOZDESKY  
Appointed from the property management sector

## **RECA Management**

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BOB MYRONIUK  
Executive Director

KIRK BACON  
Deputy Executive Director

DALE CAWSEY  
Director of Corporate Services

JOSEPH FERNANDEZ  
Registrar

JEAN FLANAGAN  
General Counsel

CHARLES STEVENSON  
Director of Professional Standards

### **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](mailto:info@reca.ca)



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