

The Regulator

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Message from Council



Robert Telford,
Chair

As you are all aware, the Minister of Service Alberta, the Honourable Nate Glubish, introduced Bill 15 into the Alberta Legislature last week. Once passed, this Bill amends the *Real Estate Act*, dismisses the eight remaining members of Council (4 of whom have terms expiring October 31, 2019), and gives the Minister the authority to appoint an Administrator to act in Council's place. The Administrator will lead and provide oversight to RECA while Government reviews its governance structure and establishes a new one, and until a new Council can be put in place.

I would like to once again thank the Minister for acting on the governance challenges RECA has been experiencing. I am also glad that the Minister has indicated he will take the time to develop a proper governance structure and appointment process.

The Minister dismissing Council was the right decision.

The Minister's actions also did not, and do not, come as a shock to me, as the Minister was aware of Council's dysfunction even before the KPMG Governance Review Report was released in July 2019 that recommended dismissal of this Council.

How did we get here?

This is my second time on Council. I originally served from 2007-2013 and was Chair in 2011. There was a significant difference from when I left in 2013 and when I was reappointed in 2016. As evidenced by the KPMG Governance Review Report, it was extremely disappointing when I found that Council could no longer self-regulate in the same manner it expects licensed professionals to self-regulate. Council meetings were able to move forward with some positive aspects but often devolved to nothing more than the making of accusations lobbed across the Council table.

The six years of Council's I have previously served on kept RECA's mandate to protect consumers at the forefront, and we acted in the best interest of our industry, all industry professionals, and consumers. When I arrived on Council once again in 2016, some Council members appeared to be conflicted between the Council's mandate to protect consumers and their appointing association. Some openly stated they understood, however did not agree with the mandate set for RECA in the *Real Estate Act*. This is not the foundation of good governance.

What should a new Council look like?

Personally, having spent 32 years on various boards, fulfilling numerous positions, and as a licensed professional with over 30-years' experience as both a real estate broker and real estate appraiser, I would like to see the Minister approve a governance structure that does not have one association appointing the bulk of Council. Under section 6 of the *Real Estate Act*, the Alberta Real Estate Association (AREA) directly appoints six Council members, all of whom must be members of AREA, and those six are the majority vote in appointing a further four Council members. That leaves only two positions open, and only one is the public member appointed by the Minister. This has been the core of RECA's governance failings, particularly in the last three years, and changing this one-sided appointment structure was the major recommendation of the KPMG Governance Review Report.

This had always been a potential issue. In 2009, Council at the time even brought to the attention of

the then Progressive Conservative Alberta government the potential for governance challenges arising from this one-sided appointment structure.

How could things be different?

Based on current trends of good governance, as well as the mandate of RECA, I believe that there should be an equal number of consumers/public members and industry professionals on Council. In addition I believe that, the industry members should be comprised of representatives from all industry sectors. The Act should also change to ensure that no industry member is excluded from being able to be appointed to Council based on their membership, or non-membership, with a trade association.

Further to this, all appointments should be made by an independent body, devoid of industry interests, and should be made based on a competency matrix.

A new Council should also have a mechanism for dealing with breaches of the Code of Conduct for Council Members without having to resort to the courts. This has been another issue at the centre of Council's governance challenges. When Council doesn't follow its own Rules, there must be a mechanism to enforce compliance.

We had a good thing going

As this will be my last message as Chair, and the last message from Council as it exists today, I would like to take a moment to thank Bob Myroniuk, RECA's recently retired executive director. Bob helped create RECA in 1995-1996 and raised it into the envy of self-regulatory bodies across North America.

Bob was tireless in his defense of self-regulation, and always thought of it as a privilege; one the industry could lose if it did not take it seriously. In fact, RECA's counterpart in BC lost self-regulation two years ago, and self-regulatory professions the world over are disappearing as consumers lose trust in the professionals being able to police themselves. Bob spent countless hours trying to educate and advise Council when these governance challenges began in 2016.

RECA exists so consumers can trust the professionals helping them make the largest financial decisions of their lives. We appreciate that the Minister has recognized RECA's great work in its first 20+ years and giving the profession another chance at self-regulation believing that RECA can become the professional regulatory it once was, with a new governance structure.

Council is not RECA

Beyond my gratitude to Bob Myroniuk, I would also like to express my continuing support for RECA Staff and Administration. The hard-working, professional staff at RECA continue to provide outstanding services to the public and industry professionals and in doing so provide award-winning education, communications, licensing systems, and investigations. Multiple-award winning in fact. They continued their work even during the height of Council's dysfunction and won four major international awards this year.

RECA has always been a high-performing regulator, and despite this turbulent time on Council, I believe with a new governance structure set out by the Minister, RECA will regain its place as the top real estate, mortgage brokerage, and real estate appraisal regulator in North America.

Don't believe everything you read

Finally, it is with extreme regret and shock that I've witnessed extensive misleading information about RECA circulate within the industry and the public. I urge you all to review the information RECA sent out yesterday a [FAQ – Section 76 Review and KPMG Governance Review Report](#) that sets things straight. While RECA has experienced this challenging time, others appear to be spreading inaccurate information to make things appear worse than they are, and to deflect accountability. I urge you to read all the facts and make up your own minds. We have provided you with the links to the relevant information so that you can verify the information and make an evidence based decision.

In closing

I would like to close by thanking those on Council and in RECA Administration throughout the years who put the consumer first and helped create a regulated environment in our province that consumers could trust. All that hard work was not in vain, as even in this challenging time, the day-to-day regulatory work at RECA continued as if nothing were amiss, and consumers could buy and sell property, get a mortgage, or have their property appraised in Alberta with all the protections of a high-performing regulator.

At the end of my term on October 31, 2019 or when I am dismissed from Council, I will continue to be a licensed real estate broker and real estate appraiser, and I will continue to do my part in ensuring my industry peers understand the privilege of self-regulation, and further, that our biggest asset is an educated, protected public.

It is up to us.

Renewal Roundup

The latest renewal period is behind us, and overall, the industry outlook remains positive.

The Numbers

Year-over-year, the number of individuals licensed in Alberta remained stable. The numbers in mortgage brokerage increased slightly, while the numbers in real estate brokerage and real estate appraisal decreased slightly.

As of October 7, 2019, 14,617 industry professionals were licensed. Of these, 11,934 real estate professionals (a decrease of 259), 2,144 mortgage brokerage professionals (an increase of 20), and 539 real estate appraisers (a decrease of 26) were licensed. The number of real estate appraisers is down over the last five years while the number of mortgage brokerage professionals is similar to those in the past five years.

This year, the number of new professionals joining the industry decreased. Between Oct. 1, 2018 and Sept. 30, 2019, 1,220 individuals joined the industry. Last year, 1,444 individuals joined. However, the industry saw fewer individuals leaving the industry for the second consecutive year.

New authorizations



1,220
New industry
professionals who
became licensed.

vs.

Non-renewals



1,006
Professionals who did
not renew.

This year more professionals entered the industry than left the industry.

Renewal Experience

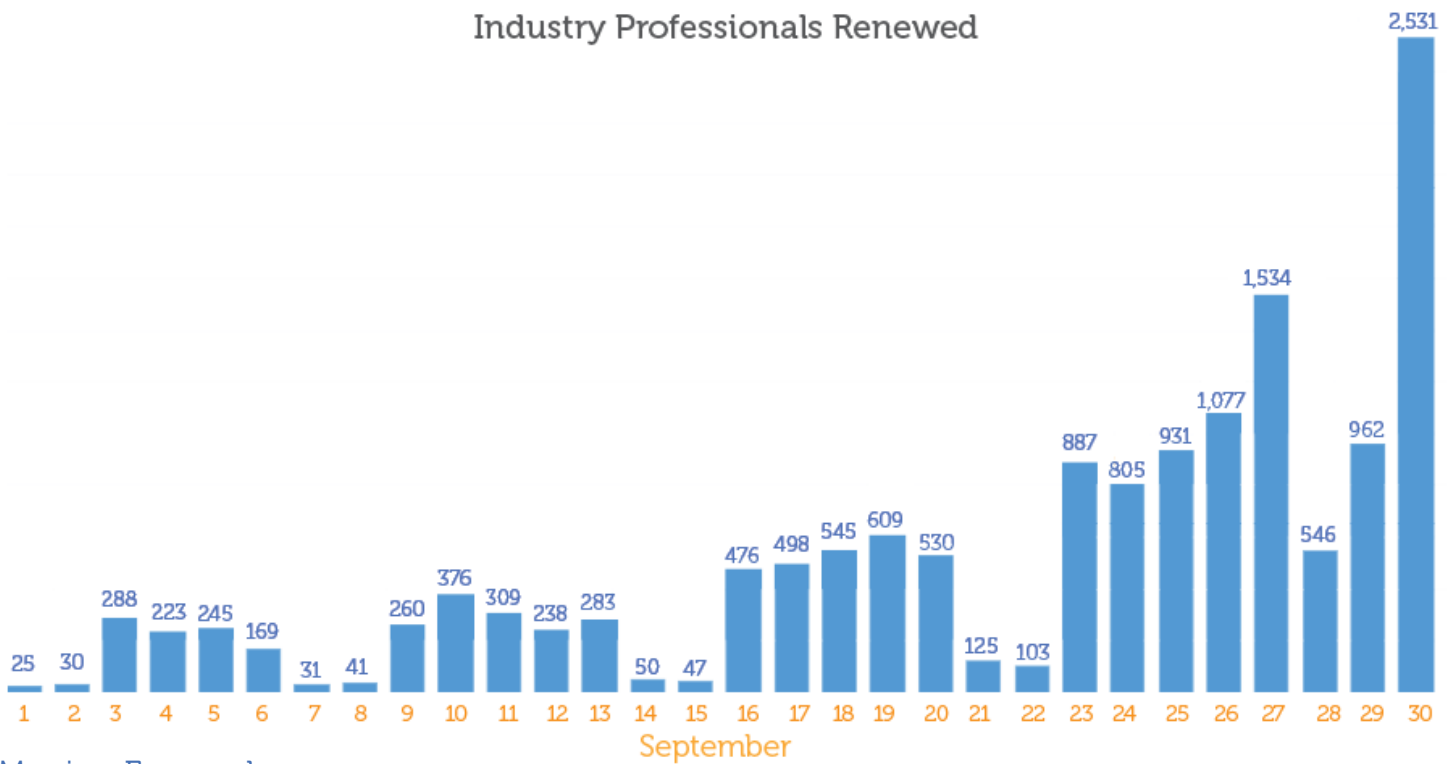
During this year's licensing renewal period, RECA staff continued efforts to assist industry to complete renewals efficiently and effectively. RECA was very proactive and assisted in resolving renewal issues early. There were numerous communications to industry about important topics including the requirement to notify RECA about *Real Estate Act* Rules s.40 issues before starting a renewal, re-licensing course requirements, advice about how to avoid mistaken "yes" answers in the renewal form suitability questions, and advice relating to transferring brokerages.

On September 30, 2019, 82% of industry professionals had renewed, which was a slight decrease from the previous year. This could have been tied to some industry professionals not having completed the re-licensing courses on time this year.

As in past years, more than half of the renewals took place in the last week. On September 30, 2019, the last day to renew, a record 17.4% of professionals renewed. RECA staff, the myRECA licensing system, and RECA's education platform successfully accommodated the higher user volume in the last week and the last day.

The graph below shows the number of industry professionals who renewed each day in September.

Industry Professionals Renewed



Moving Forward

RECA departments completed internal reviews of this year's renewal, and will talk to brokerages in the coming months to identify opportunities for further improvements in the annual renewal process.

RECA would like to take this opportunity to thank industry professionals for their support and cooperation throughout this year's renewal.

Helpful Tip

RECA had numerous calls about forgotten usernames and passwords during this year's renewal process. It is a good idea to keep your username and password on file for future reference.

If you do forget your username or password, there are options on the myRECA login page to have your username sent to you or reset your password. Simply go to www.myreca.ca and you will find the forgot username and forgot password beside the login.

Practice Tip: When Mortgage Professionals Can Collect Fees

Advice from your Mortgage Broker Practice Advisor, Gary Siegle

I often get asked, “when exactly can I collect my fee?”. It’s a good question because there are many steps involved in closing a mortgage transaction.

First of all, the timing is different for residential transactions than commercial transactions.

For residential transactions, you cannot collect (or even attempt to collect) until two things happen:

1. The borrower has signed a written commitment (this means the borrower has met all the lender’s conditions)
2. the borrower has signed the *Cost of Credit Disclosure* and at least two business days have passed since the borrower received it or waived the time period for delivery, as required by the *Consumer Protection Act Regulations*.

The *Cost of Credit Disclosure Regulation* requires borrowers to receive a disclosure statement for mortgages at least two business days before they incur any obligation to the credit grantor or make any payment in connection with the mortgage loan.

A borrower may waive the time for delivery of the disclosure statement under certain conditions, which are outlined in Information Bulletin: [Cost of Credit Disclosure – Mortgage Brokerage](#).

Commercial and investment mortgages do not have the same restrictions because they are not subject to the cost of credit disclosure provisions of the *Consumer Protection Act*.

In either case (commercial or residential) the fee must be disclosed and agreed to in writing.

I encourage mortgage industry professionals to use the [Mortgage Borrower Disclosure](#) document available on reca.ca. Completing this document will help you meet the mortgage brokerage responsibilities in the Rules.

I encourage mortgage industry professionals to use the appropriate disclosure/service agreement:

- [Borrower Consent & Disclosure When You Represent the Lender](#): usually when dealing on behalf of a private lender, the brokerage charges a fee. You will then need to amend clause 6.1 to match the situation
- [Acting as an Intermediary Service Agreement](#): use this form when your brokerage does not represent either the borrower or lender. If your brokerage is charging a fee in addition to receiving compensation from the lender, amend 7.1 accordingly
- [Borrower Consent & Disclosure When You Represent the Lender](#): use this form when your brokerage represents the borrower. If your brokerage is charging a fee in addition to receiving compensation from the lender, amend 7.1 accordingly

Completing the appropriate document will help you meet the mortgage brokerage responsibilities in the Rules.

Practice Tip: Referral Fees

Advice from your Mortgage Broker Practice Advisor, Gary Siegle

Most real estate transactions have several different players at the table. Many mortgage professionals have existing relationships with third-party service providers, and you may refer your clients to an insurance broker, home inspector, or cleaner. When you make the referral, you trust the person or company you're referring someone to, and you believe using the services of the third party is in the best interest of your client—even if you will collect a referral fee.



Collecting a referral fee is perfectly legal, but it must be disclosed to the client by the professional who is receiving the fee.

Before a mortgage professional refers a client to a third-party service provider and you may receive a referral fee or other compensation for the referral, you must disclose to your client, in writing:

- that you will be giving the client's confidential information to a third party
- the nature of the information being shared (name, address, contact info, etc.)
- the fact you will receive a fee or other compensation for the referral

After you provide those disclosures, the client must give their consent, in writing, to you to share their information with a third party. Remember, even a client's name, phone number or email are private, confidential information.

Should a mortgage professional not have written permission from their client to make a referral and possibly receive a referral fee, they're not entitled to receive a fee.

Another thing to remember is that all referral fees must be paid to you through your brokerage. Mortgage professionals cannot receive referral fee payments directly, and they cannot directly pay a referral fee to someone directly. The fee must go through the brokerage. The brokerage will then pay the specific mortgage professional in accordance with the brokerage policies and any agreements that exist between the mortgage professional and their brokerage.

Making disclosures in writing and being honest and transparent during a transaction builds trust and confidence in Alberta's mortgage industry and its professionals.

RECA's disclosure requirements are laid out in [RECA's Information Bulletin: Referrals – Industry Member Requirements](#).

Practice Tip: Send your Clients to reca.ca for Helpful Information

Did you know that RECA provides lots of information for consumers as well as industry professionals? In fact, because RECA's mandate is to protect consumers, RECA has created a suite of articles, websites, and resources over the years for consumers. We continue to build the resources regularly. These are to help consumers, your clients, better understand the real estate, mortgage, and real estate appraisal industries, the services offered and transactions.

Why now?

RECA's communications survey conducted in July 2019 told us that licensed industry professionals are not necessarily aware of the extent of the resources available to their clients on RECA's website.

An educated consumer is a protected consumer. And an industry professional making their clients and potential clients aware of such information goes a long way in building trust between them and their clients, and the Alberta public and the industry.

Go to www.reca.ca and have a look around yourself.

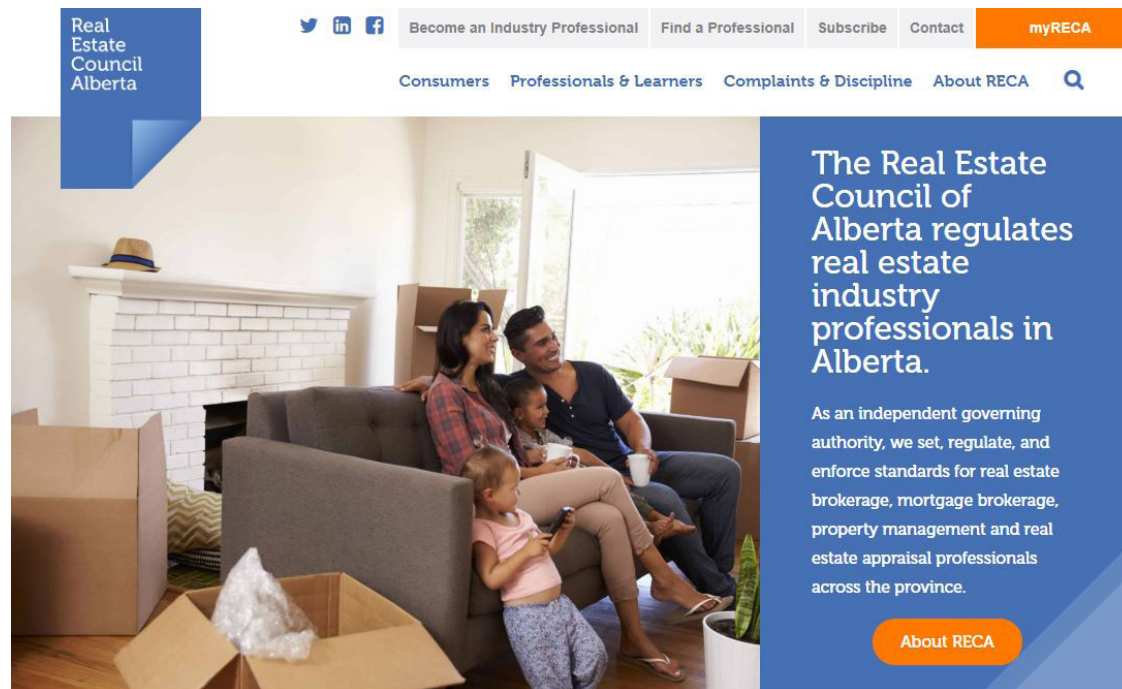
Consumer Awareness of the Tools and Resources Available to the Public

Let your clients know there are tools and resources for their benefit. Check out RECA's:

- [Home Buyer's Guide](#)
- [Home Seller's Guide](#)
- [Making an Offer](#)
- [Getting an Offer](#)
- [Consumer Tools & Resources](#)
 - [Consumer Tips](#)
 - [Forms](#)
 - [Glossary](#)
 - [FAQs](#)

Consumer Awareness of the Industry as a Whole

RECA regularly conducts Consumer Focus Groups to gauge consumer awareness of RECA and the benefits and protections a regulated industry offers the public. Although overall awareness has increased over the years, two-thirds of Albertans remain unaware that RECA regulates industry professionals.



The screenshot shows the RECA website interface. At the top, there are social media icons for Twitter, LinkedIn, and Facebook, followed by navigation links: "Become an Industry Professional", "Find a Professional", "Subscribe", "Contact", and "myRECA". Below this is a secondary navigation bar with "Consumers", "Professionals & Learners", "Complaints & Discipline", "About RECA", and a search icon. The main content area features a large image of a family (a man, a woman, and two children) sitting on a couch in a living room with a fireplace, surrounded by moving boxes. To the right of the image is a blue sidebar with the text: "The Real Estate Council of Alberta regulates real estate industry professionals in Alberta." Below this text is a smaller line: "As an independent governing authority, we set, regulate, and enforce standards for real estate brokerage, mortgage brokerage, property management and real estate appraisal professionals across the province." At the bottom of the sidebar is an orange button that says "About RECA".



RECA aims to improve consumer awareness and continue to inform the public you are part of a regulated industry. You can help with this. Higher levels of awareness will raise public understanding of industry value and demonstrate you are trusted licensed professionals who help consumers make one of the most important financial decisions they will likely make when purchasing property.

Point your clients at RECA's [Real Estate 101](#) page. It will give them all the background on the industry they need. If they want to dive further, there is more information in the [Real Estate Industry](#) section, including reasons for [working with a licensed professional](#), a [plain language explanation](#) of the *Real Estate Act* Rules dealing with professional standards of conduct for industry professionals, and an overview of how consumers are protected by the Real Estate Assurance Fund (also known as the [Consumer Protection Fund](#)).

When you need to quickly explain what RECA is we have that covered too. Look for that explanation on the [What RECA Does for Consumers](#) page.

When consumers want to know how the standards are enforced, send them to [Complaints and Discipline](#) section. Everything is written with the consumer in mind.

Wait... there's more!

Consumers can also learn about important things they may encounter in real estate, mortgage, and appraisals, all from a consumer's perspective, including:

- [Real Estate Appraisals](#)
- [Real Property Reports](#)
- [Title Insurance](#)
- [The Residential Measurement Standard](#)
- [Radon](#)
- [Property Stigma](#)
- [Attached vs. Unattached Goods](#)
- [Material Latent Defects](#)
- [Financial Literacy](#)
- [Mortgage Fraud](#)
- [Working with a Mortgage Broker](#)

Consumer can also reach out to RECA's Information Officers directly with a question, by phone, or by email at info@reca.ca. They can also check the licence status and licence history of any professional they encounter using the [Find a Professional tool](#).

RECA takes its mandate to protect consumers seriously, and has made consumers the primary stakeholder of the 2016-2020 Strategic Plan. The goal of the plan is to ensure that every consumer who uses the services of an industry professional is aware of RECA, and aware of the protections and services available to them in a regulated environment.

As a self-regulated profession, it is important for industry professionals to demonstrate the value of regulation to consumers. Part of that is making consumers aware of your regulator, the work it does and the services it offers. You can help deliver this message to consumers by making them aware of reca.ca. Consumers will appreciate your help!

Remembering Lynn Allen Patrick

It is with a heavy heart we announce that Lynn Patrick, former Council member of RECA, passed away in September. Lynn was a public member of Council, and RECA's very first public member Chair (2005). He served on a number of government boards and was involved with several charities. During his term as Chair he made strides to clarify the intent and purpose of the Assurance Fund. RECA and industry professionals who worked with him will remember him for his amazing ability to look at things objectively, logically, and in a very calm manner. He was committed to the security of the public and effective, principled self-regulation. We offer our deepest condolences to his loved ones.

RECA Education Program wins Brandon Hall award

RECA has been awarded Silver in Brandon Hall Group's 2019 Excellence in Learning Awards for our Real Estate Update 2018 course. This is the first time RECA has won a Brandon Hall award. The awards recognize the best organizations that have successfully deployed programs, strategies, modalities, processes, systems, and tools that have achieved measurable results. The program attracts entrants from leading corporations around world, as well as mid-market and smaller firms.

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