

The Regulator

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Message from the Administrator

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My first message as Administrator was in February of this year, but it feels like it was a years ago. The beginning of February was a different reality, one where we were faintly aware of the pandemic that would disrupt our lives so substantially. But here we are, in May, still in a form of a lock down, and still managing things day-by-day. I hope that during these challenging times, all industry professionals and their loved ones are safe and healthy.

As you all know, the real estate industry has felt this disruption keenly, particularly as it came on the heels of a prolonged economic downturn in our province. We are all a part of a service industry—a people-facing industry—and I know many of you have encountered

a steep decline in business. We are in unique times, and I'm confident in Albertans to weather the storm. We are resilient, and we will come out on the other side ready for a strong recovery. The professionalism of the industry during this pandemic has shown that even though it's not business as usual, business continues, nonetheless.

Real Estate Services as an Essential Service

The Government of Alberta declared real estate services, including property management, real estate appraisal, home inspections, home measurement, and other services related to trades in real estate, along with facilitators of financing, including mortgage brokers,

as essential services in the province. This means all licensed professionals can continue to work as long as they follow all public health orders, including social distancing. What this DOES NOT MEAN, is that you are being forced to work. If you feel you are more at risk, or simply feel uncomfortable performing your regular duties in light of the pandemic, then this is a discussion you need to have with your broker and with your clients. Being declared an essential service simply means you will not be hampered in your business by government restrictions on businesses.

Working Together

RECA is currently working closely with our partners in the industry trade associations to ensure we provide similar messaging to licensed professionals, and to ensure, where possible, we do not duplicate our efforts. We are not perfect, but we aim to be better every day.

I would like to thank the Alberta Real Estate Association, CREB®, the REALTORS® Association of Edmonton, the Alberta Mortgage Brokers Association, BOMA Edmonton, and BOMA Calgary, for their efforts and cooperation during this time. We are all in this together.

We will continue to work with trade associations as we weather this pandemic and the subsequent economic fallout.

Beyond COVID-19

As the Minister of Service Alberta indicated earlier this year, the Government of Alberta had hoped to introduce changes to the *Real Estate Act* in the Spring session of the Legislature. These changes were to address the challenges with the current Council appointment structure. Needless to say, the pandemic has changed the legislative schedule as the government works to protect Albertans and keep the economy going. Should changes to the *Real Estate Act* come in the Spring session, in a special session in the Summer, or in the Fall session, RECA will let all licensees know the content of the changes as soon as RECA does.

In the meantime, I continue to hold meetings with our partner trade associations, individual brokerages, and individual professionals to discuss the future of RECA and the industry's experience working in a regulated environment.

And remember, the industry is regulated in the public interest. Consumers can trust an industry that is accountable, and when consumers trust the industry, everyone benefits.

COVID-19 Information and Resources Available for Industry Professionals and Consumers



With real estate brokerage, mortgage brokerage, and real estate appraisal deemed essential services by the Alberta Government, brokerages are not required to shut down operations during the COVID-19 pandemic.

But, while you can still carry out your duties as industry professionals, you should be staying up-to-date on current public health orders and understand the issues that may affect both you and your clients.

First and foremost, you should be discussing COVID-19 with your clients.

You are not expected to be an expert on COVID-19, but as part of providing competent service, you are expected to work cooperatively with clients to find a solution for relieving the concerns of everyone involved.

Please remember to also assess your own risk, using the current information made available by [Alberta's Chief Medical Officer](#). Being deemed an essential service means your business can continue despite public health orders effecting other businesses. It does not mean you are forced to work. If you are uncomfortable continuing to work during the pandemic, speak to your broker and to your clients and work out an alternate arrangement.

COVID-19 Resources for Industry Professionals

In order to assist industry professionals and their clients during this time RECA has made information and resources available on reca.ca.

For industry professionals, the [COVID-19 and Real Estate](#) page has information to assist you in:

- discussing options with seller and buyer clients
- discussing options with residential landlords and tenants

- response planning for commercial property management
- how to handle COVID-19 clauses or waivers
- working with modified practices of lenders, including the acceptance of electronic signatures
- modifying appraisal options
- developing COVID-19 contract clauses and liability waivers
- navigating government aid and assistance programs that may apply to your personal situations
- understanding scams and frauds related to the COVID-19 pandemic
- completing RECA education courses and contacting RECA

COVID-19 Resources for Your Clients

For your clients, the [COVID-19 Information for Real Estate Consumers](#) page has information to assist consumers with understanding:

- how adjustments made by lenders may affect their mortgage
- options for staying in or leaving the marketplace, or postponing their plans
- all the components involved in a transaction that should be considered
- options and rights as residential tenants, and modifications to the *Residential Tenancies Act* that all landlords, tenants, and their representatives should know

Information is Always Changing

Brokers, please consider linking to RECA's [COVID-19 Information for Real Estate Consumers](#) webpage from your brokerage websites so your clients can easily access the consumer information.

RECA will continue to regularly update our [COVID-19 and Real Estate](#) and [COVID-19 Information for Real Estate Consumers](#) webpages as new information becomes available.



Practice Tip: Electronic Signatures, Are They Enforceable?

Advice from your Mortgage Broker Practice Advisor, Gary Siegle



Changing Circumstances

Industry professionals interact with members of the public daily. However, with the continuation of the COVID-19 pandemic, you're no longer able to conduct business as usual.

The Government of Alberta has encouraged industry professionals to continue business with physical distancing measures in place. Understandably, the widespread acceptance of digital signatures is growing.

An electronic signature is a handy and quick alternative to a handwritten signature on a paper-based agreement, particularly now as we strive towards contact-free interactions.

The heightened use of digital signatures poses a set of questions.

Are electronic signatures legitimate? Do industry professionals need to hold off until they can meet their clients in person?

Digital Agreements and Signatures

As Albertans continue to physically distance ourselves, real estate transactions requiring signatures may proceed without interruption with the use of eSignature technology.

According to the *Electronic Transactions Act* (ETA), electronic records and transactions are just as valid and enforceable as paper-based transactions. As such, RECA views electronic real estate purchase agreements, mortgage representation agreements, and more with electronic signatures in the same light.

If you are looking to create a valid digital contract that complies with the ETA, it must be:

- organized in the same or highly similar fashion as a paper-based form
- accessible for future reference
- capable of being retained

Like electronic agreements and contracts, electronic signatures are just as binding as written signatures, provided that the electronic signature identifies both the individual who signed and the purpose of the signature in relation to the signed documents.

Approved Technology

The electronic signature collection process does not fall under RECA's legislation, and there are no approved electronic agreement or signature platforms or programs for the lawful collection of electronic signatures. Technology changes too quickly for an approved list to remain intact for long.

Both parties must mutually agree on a preferred method and determine if their method complies with the ETA. Mortgage professionals should verify the specific requirements for each lender.

Read more about RECA's interpretation of electronic signatures in the industry in RECA's [Information Bulletin: Electronic Agreements](#). The bulletin provides an in-depth look at the enforceability of electronic contracts.

Albertans rely on professional real estate services. All industry professionals should work cooperatively with their clients to discuss COVID-19 and find a solution for relieving the concerns of everyone involved. Visit reca.ca for guides and tools on navigating your professional practices through COVID-19.



Practice Tip: Talk To Your Clients About Private Lending

Advice from your Mortgage Broker Practice Advisor, Gary Siegle

Private lending is becoming increasingly popular among Canadians looking to secure loans to buy, renovate, or refinance a home.

Canada's current mortgage rules, including the stress test, have made it more difficult for some people to get mortgages from traditional lenders, particularly for those who are self-employed, first-time home buyers, new to Canada, or have credit challenges.

As a result, more buyers are turning to private lenders.

Private lenders include mortgage investment corporations, investors who pool their capital (syndicated mortgages), or individuals lending their own money.

For your clients who are unable to secure a traditional mortgage from a bank or credit union, private lenders could offer an alternative. This alternative might be especially useful for those clients whose financial situation may have recently changed due to the current COVID-19 pandemic.

However, if your clients are considering using a private lender, there are things you should discuss with them to ensure they understand:

- **Property-focused approval**—in contrast to traditional mortgages, private mortgages often look first at the property value and location—the client's financial situation is secondary





- **Higher rates**—your clients should be aware that because private lenders are taking on higher risks, they usually charge higher mortgage rates
- **Additional costs**—in addition to higher interest rates, private lenders charge a fee. Talk to your clients about how they plan to cover these lender fees, along with administrative and legal fees and broker commissions.
- **Foreclosure**—you should also discuss with your clients the reality that private lenders can be quicker than banks to foreclose if they fall behind on their mortgage payments
- **Short-term loans**—many private lenders typically only offer a loan for a term of a year, or possibly two. Clients that are unable to obtain bank financing at renewal time may end up in a cycle of these short-term, higher cost mortgages.
- **Interest-only loans**—some private lenders offer interest-only loans, where the monthly payments are applied only to the interest. While interest only loans have lower payments than standard loans, at the end of the loan's term, your client will find themselves no further ahead, with the full balance still outstanding.

Whether you're a real estate or mortgage professional, you may have clients asking you about private lending options. If traditional financial institutions and mortgages aren't the right fit for them, for whatever reason, working with a private lender is an available option. Helping your clients understand how these options may differ from traditional mortgages is important in order to protect your clients' best interests.

Practice Tip: Disclosing Personal Trades

Advice from your Real Estate Practice Advisor, Kristian Tzenov



As a result of the current economic environment and the global COVID 19 pandemic, I have been receiving an increasing number of inquiries surrounding personal trades and the required disclosure obligations. Whenever real estate professionals engage in personal trades, either directly or indirectly, they are required to make the necessary disclosures [*Real Estate Act Rules s.62*].

A different set of requirements exists depending on the representation status of the other party. However, the other party having representation does not eliminate the obligation of the real estate professional engaged in a personal trade to disclose their status as an industry member and their brokerage.

In addition to the disclosures discussed below, buyers and sellers must be allowed to seek independent legal advice.

Disclosure to a Represented Buyer or Seller

When you are engaging in a personal trade and dealing with someone who is represented by another industry professional, there are two items you must immediately disclose in writing:

- you hold a real estate licence with RECA
- the name of your brokerage

Disclosure to an Unrepresented Buyer or Seller

Alternatively, when you are engaging in a personal trade and dealing with someone who is not represented by another industry professional, there are additional written disclosures you must immediately complete – these would be in addition to the disclosures in the previous section:

- any direct or indirect interest you have in the transaction
- any information that you are aware of which could materially affect the value of the property
- the complete details of any negotiations for a future trade of the property

Disclosure to acquire a property listed for sale or managed by the real estate professionals' brokerage

A third scenario involves situations where you engage in a personal trade of a property currently listed for sale or managed by your brokerage. Under these circumstances, you must immediately make a number of additional disclosures:

- the apparent conflict of interest
- the name of the Buyer and what their relationship is to the brokerage
- any confidential information of the Seller that the Buyer may have already received
- who will be representing the Buyer in the transaction

These Requirements Are Not Just For You

These disclosure responsibilities apply not only to real estate professionals registered with the brokerage, but also to directors, shareholders, employees of the brokerage, or immediate family members of these individuals.

Disclosure Timing

The timing of these disclosures must take place at the earliest practical opportunity and would certainly have to be done prior to the presentation of any offers.

Insurance Considerations

Another practical consideration for industry members when determining if personal trades are worth their effort, is that the Real Estate Insurance Exchange (REIX) does not provide errors and omission (E&O) insurance on personal trades.

In order for the E&O Insurance to be applicable, when taking part in personal trades, you must engage another industry professional to represent you in the transaction. This would not eliminate your obligation to follow the disclosure requirements in the *Real Estate Act Rules*. It would, however, afford your representative the protection of E&O Insurance provided by REIX.

Remember, should you choose to proceed with a personal trade, you must be able to demonstrate that the transaction was righteous, meaning the transaction proceeded the same way it would have if it was not a personal trade, and that your personal conflict of interest did not alter the transaction in any way.



Enhanced Practice of Commercial Real Estate Course

RECA is enhancing the **Practice of Commercial Real Estate** course. This new course will launch in May and includes a step-by-step explanation of landlord representation in a commercial leasing transaction. Learners will get a firsthand look at the landlord representation process as it unfolds from first contact to the final signing of a lease agreement.

RECA collaborated with experienced Alberta commercial real estate professionals to ensure this training prepares learners with practical knowledge for working with commercial landlords.



This course uses the most current eLearning technology and takes candidates well past the lower steps of learning—memorizing facts—and onto the application of knowledge.

"...this is likely the best standalone course I've read regarding commercial real estate brokerage as a profession. I've taken courses from SIOR, CCIM and UBC specific to real estate but they all lacked the practice element found in this course. More specifically, the material in those courses was much more theoretical, whereas I found this course to offer a lot more information on 'how' to be an agent."

- Chad Griffiths, NAI Commercial Real Estate Inc.

The enhanced course also includes the latest information on:

- practice standards related to radon in commercial buildings
- due diligence expectations when representing landlords, cannabis dispensaries, and non-cannabis industry clients
- self-regulation and professionalism in Alberta's real estate industry

Watch for future enhancements to this course!

Online Exam Proctoring Now Available

Due to the protocols developed to mitigate COVID-19, test centres have been closed and have not been able to provide learners with the opportunity to take their pre-licensing examinations.

As it became apparent that test centres would be closed for some time, RECA looked to other jurisdictions across Canada and North America to determine potential next steps. At each conference, virtual proctoring was being discussed as a solution. However, RECA had to first ensure virtual proctoring was a viable alternative—with appropriate security measures in place for exams and exam candidates.

To assist learners with continuing through their licensing process, we have partnered with Alberta-sourced parties to create a virtual proctoring system that will be accessed through your myRECA account. We hope to have more details next week.

We expect many learners will want to begin this process right away and may have questions. This process is new for you and our Learner Support team. Consider emailing your questions to education@reca.ca as an alternative to calling.

We appreciate your patience while we put this system in place.



Alberta Insurance Council Mortgage Creditor Insurance Licence Deadline

If your mortgage brokerage distributes mortgage creditor insurance, a restricted licence from the Alberta Insurance Council is required.

If you already have a licence, it will expire on June 30, 2020 and must be renewed prior to that date if you wish to continue.

The Alberta Insurance Council emails renewal notifications to all license holders through the brokerage Designated Individual (DI) in early May. If you are not sure if you currently hold a licence or need to update your DI, search your business name at [Alberta Insurance Council](https://www.abccouncil.ca). Questions can be emailed to: licensing@abcouncil.ab.ca

All New Real Estate Career Information Session

RECA Education has launched a new Real Estate Career Information Session. The new session uses emerging technologies and was developed using current eLearning principles to be more engaging and increase information retention.

The information session is a free online course that anyone can take before considering a career in real estate or property management. The session outlines what it is like to work as a professional in the industry and will help people decide if enrolling in RECA Education is the right decision for them.

RECA wins Hermes Creative Platinum Award

The Real Estate Career Information Session has won the Platinum Hermes Creative Award 2020, in the category: Electronic Media/Social Media/Interactive Media/Mobile & Web Technology.

Hermes Creative Awards honors messengers and creators around the world. Hermes winners bring their ideas to life through traditional and digital platforms.

Fraud Prevention Month Wrap Up

March was Fraud Prevention Month in Canada. RECA teamed up with organizations across Alberta to help inform the public and create awareness about how to protect themselves from fraud.

RECA co-hosted the Fraud Prevention Month Calgary kick-off event at the Central Library in Calgary along with the Calgary Police Service, and the Better Business Bureau. The event included multiple speaker series that covered fraud and scams. The sessions received a lot of positive feedback from attendees.

RECA also attended the Edmonton Fraud launch event.

We also provided industry professionals with information so they could report anything to the proper authorities if they spot fraud related to trades, deals, and appraisals.

Updated Real Estate Brokerage Policies and Procedures Manual Template

RECA has updated the Real Estate Brokerage Policies and Procedures Manual template.

The template now includes a checklist for developing a brokerage cybersecurity program to help keep brokerage and client digital information and systems safe.

The updated MS Word template is available for [download from reca.ca](https://reca.ca), on the Guides and Checklists page under Tools and Resources.

Tradeshow season: it's a wrap!

RECA's official tradeshow season has wrapped up early. Before the season was cut short due to COVID-19, RECA was able to attend this year's CREB® Forecast and the Home and Garden show in Calgary.

Attendance at tradeshow is part of RECA's consumer and industry outreach campaigns. Events like these help to ensure RECA engages directly with all stakeholders, including consumers and industry.

A big thank you to everyone who dropped by our booths!

Alberta School of Business Team wins 2020 Battle of the Prairies Real Estate Development Challenge

Mark Bowman, Branden Bilodeau, and Gavin Knechtel presented their winning Request for Proposal response to adjudicators in Calgary on March 12. The winning teammates are BComm students in the Real Estate Program at the Alberta School of Business.

Their proposal focused on a parcel of land near the soon-to-be-expanded BMO Convention Centre in Calgary. The team proposed a 278,400 square foot multipurpose building, which would include 300 multi-family rental property units as well as ground floor retail space.

This was the 6th Annual Battle of Alberta (now called the Battle of the Prairies). The Battle of Prairies is a real estate development case competition sponsored by NAIOP Edmonton and NAIOP Calgary. This type of NAIOP Competition occurs in many centers around North America.

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