

# The Regulator

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## Message from the Board Chair

Patricia McLeod, Q.C.

It's hard to believe, but RECA's Board of Directors and Industry Councils have been working together for five months now. In many ways it feels like we have been working together for years, and in other ways it has felt like the blink of an eye! It is certainly been an unusual experience working so closely with a group of people who, thanks to the pandemic, have never even met in person!

The Board has undertaken a lot of work, and has a lot of work remaining to meet the ambitious timelines for certain projects set by Service Alberta. We are starting to truly get our legs under us and are making serious progress in a number of key areas. Since my last message in February, the Board has met three times to work towards fulfilling our 2021 obligations to Service Alberta and to stakeholders. (Check for [Board meeting agendas and minutes](#) on [reca.ca](#). Meeting minutes are added to the website as they are approved.)

### Latest Board Activities

One of our immediate goals is to hire a permanent Chief Executive Officer for RECA. RECA has been without a permanent executive officer since August 2019, and the sooner the position is permanently filled, the sooner RECA can function fully as intended by the December 1, 2020 changes to the *Real Estate Act*. The Board, through the newly formed HR and Governance Committee, has approved Boyden, an external executive recruitment firm, to conduct the search. The Board hopes to have the new CEO in place in the next 90 days.

Another immediate obligation of the Board is the creation of new Bylaws pertaining to governance, Board dispute resolution, and governance training. These new Bylaws must be submitted to the Minister of Service Alberta for approval by June 30, 2021. The Board must also develop Bylaws regarding the divestment of education and the Industry Council elections. These must be on the Minister's desk by August 31, 2021. Work on all of these Bylaws is underway, and will be a priority for the Board over the Spring and Summer.

The Board has also worked closely with the Industry Councils in ensuring we are all working under the same education divestment framework. By working from the same framework, we can ensure education standards remain as consistent as possible across each sector and that each Industry Council can meet the deadline of December 1, 2022 to divest all licensing education from RECA. This is a massive undertaking that must be carefully planned to ensure all new licensees entering the industry are competent and ready to assist and protect the public of Alberta. More information on the divestment project will be sent to all stakeholders when feedback is sought and as decisions are made. Keep an eye on your inbox!

### **Further Amendments to the *Real Estate Act***

Service Alberta introduced further changes to the *Real Estate Act* in Bill 62, the *Red Tape Reduction Implementation Act 2021*, on April 8, 2021. These amendments clarify some of the authority the Board has over creating bylaws around education divestment and Industry Council elections, clarify some of the Minister's authority concerning approving new Bylaws and Rules for the industry, and allow for the staggering of appointments to the Board and Industry Councils. Be sure to be on the lookout for more information from RECA on these amendments should they be passed in the Legislature.

## **Stakeholder Engagement**

At its March 5 meeting, the Board approved a new [Stakeholder Engagement Policy](#) that outlines how, why, and with whom RECA will engage on issues. The Policy ensures all RECA stakeholder engagement will be timely, equal, consistent, transparent, and meaningful.

I hope you had the chance to join the Board of Directors at our Online Engagement Session on April 14. We had nearly 150 stakeholders take part in a short presentation of current Board activities followed by a lengthy question and answer session. The session was an example of self-regulation in action! Thank you to everyone who tuned in and to everyone who asked questions. The [session is available online](#), and I encourage everyone to learn what your regulatory body is up to. I was impressed by the level of engagement from the stakeholders that attended.

The Board believes strongly in transparency and accountability. During the session certain themes in the questions came up, and I'd like to address them here:

### **The KPMG Report Recommendations**

- The KPMG Report contained many recommendations to the Minister of Service Alberta. The Minister acted on those recommendations, resulting in the dismissal of the old Council, and the creation of the new governance structure for RECA. Through making this governance structure change, many further recommendations in the report were not required, as they were recommendations to be followed should the Minister not change the governance structure.
- Some of the other recommendations already enacted and enshrined in the *Real Estate Act* are mandatory governance training, a requirement to create a dispute resolution bylaw, and executive director performance reviews. We have already

undergone governance training, and are in the process of creating relevant bylaws and processes for the rest of those recommendations.

- An additional recommendation was the creation of an Enterprise Risk Management process for RECA. RECA had already begun this process at the time of the KPMG review, and that work will continue under the Board's Finance and Audit Committee.

### RECA's Office Building

- A few questions pertained to RECA's office building purchase in 2018. Like all of RECA's assets and investments, decisions regarding RECA's building are a Board matter, and one we will manage with the same care, diligence, and transparency that we will provide for all of RECA's investments. For anyone concerned about transparency, RECA's finances are, and always have been, audited annually by a third-party auditor, and financial statements are posted on the RECA website.
- The Board will review the decisions that led to the purchase of the building; however, the fact remains that RECA owns the building where its offices are located, and the Board will make determinations about the building moving forward the same way we would make a determination about any of RECA's assets and investments. The Board will act in the best interest of RECA, the industry, and the Alberta public.

### Bill 62

- Some attendees had questions about Bill 62, which I spoke about above. In particular they had questions about the Board's involvement with these changes.
- Bill 62 was written by the Government of Alberta, and the Board was not consulted in its writing. That being said, the Board supports more clarity in the *Real Estate Act*. We will have more to say about the amendments should they be passed in the Legislature.
- The Board Online Engagement Session was just the beginning. The Residential Real Estate Broker Industry Council held their Online Engagement Session on April 26, and each of the other Industry Councils will host their own sessions in the coming weeks. Please see the Chair's messages from the Industry Councils for more information.

### A Quick note on the Online Engagement Sessions

We have appreciated the feedback and questions we have received during the stakeholder engagement process. After these engagements we have realized we need to make some clarifications and changes to improve the stakeholder engagement process.

- We want to make it clear the Q&A portion of the online engagement sessions is curated. We reserve the right to place parameters to ensure a courteous and collaborative exchange of ideas and concerns.
- Duplicate questions will not be read. If multiple questions relate to the same topic, the host may ask a general question based on the common theme they are seeing, and not read every question verbatim.
- Questions or comments containing defamatory or misleading information, will not be read during the session.
- Anonymous participants will not be accepted. All participants will need to identify themselves. This is a reasonable collaborative discussion expectation in a self-regulatory environment.

It is my hope that if we all keep a professional mindset in the stakeholder engagement sessions, we will best be able to work together to ensure robust and effective engagement.

Beyond these Online Engagement Sessions, you can reach the Board through the Board email address, [board@reca.ab.ca](mailto:board@reca.ab.ca), or you can fill out our [Strategic Planning form](#), and let us know what issues, trends, or concerns you see in the industry. I've said it before and I'll say it again: we want to hear from you! Meaningful engagement is how the privilege of self-regulation remains a reality for the industry in Alberta. So, take part! All feedback received will help the Board set a multi-year strategic plan for RECA.



# Commercial Real Estate Broker and Commercial Property Manager Industry Council Update

*A message from your Chair, Terry Engen*

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*On December 1, 2020, Terry Engen was appointed to the Commercial Property Manager Industry Council by the Minister of Service Alberta and was selected as Chair by the other Industry Council members. Mr. Engen brings governance experience from the Hockey Alberta and Hockey Canada board of directors, and he served as a Hearing Commissioner with the Alberta Energy Regulator where he conducted hearings for energy applications and regulatory appeals. Mr. Engen also has extensive governance experience at the municipal level, having been a Reeve, Councillor, and Deputy Reeve for Lacombe County.*



This Industry Council represents, as the name suggests, licensees who work in either (or both) trading in or leasing commercial properties in Alberta. For simplicity's sake, I'll just refer to our group as the Commercial Industry Council in this message. Please read on for an update on our activities the past five months.

## By-elections

With the *Real Estate Amendment Act 2020* coming into force on December 1, 2020, RECA's new governance bodies were formed, each with two public members and three licensee members who work in the industry that Industry Council is responsible for regulating. Given the breadth and depth of commercial real estate and property management in Alberta, the Commercial Industry Council requires licensees to have in-depth knowledge of specific aspects of commercial real estate or commercial property management. As such, when the new RECA governance structure formed, the Commercial Industry Council was still one seat empty, which meant that our group needed to hold a by-election before some of our work could move ahead. The by-election to fill the final seat was held in early February 2021, welcoming long-time commercial industry licensee Cheri Long to the fold. We were all hands on deck and ready to get to work!

## Education Divestment

We are collaborating with the other Industry Councils to ensure we take a consistent approach to education divestment, which includes creating core competencies for industry professionals and education requirements that we'll impart to approved third-party providers. Commercial licensees should keep an eye on their inboxes for a national competency survey for residential and commercial real estate professionals. This is part of a national effort to harmonize real estate competencies to allow for easier labour mobility between provinces, and will be part of the process for the Commercial Industry Council to set our own competencies and learner outcomes. I encourage everyone to take the time to complete the survey. This initiative is a priority for us in the coming months.

## Other Priorities

The Commercial Industry Council has also been discussing other commercial real estate issues such as lawyers trading in real estate, FINTRAC requirements, and the commercial industry licensing structure.

Should the Commercial Industry Council propose any changes to any standards, we will consult with industry stakeholders before making any decisions. And ultimately, all Rule changes must be approved by the Minister of Service Alberta.

## Upcoming Stakeholder Engagement Opportunities

On June 2, 2020, we will be hosting an online engagement session and I encourage you to [register](#) to attend. You'll learn about how we operate within RECA's new governance structure, receive an update on our recent activities and priorities for the coming months. It will be a great opportunity to meet your Council members and ask us questions. If you can't make the session, you can reach us at: [CommIC@reca.ab.ca](mailto:CommIC@reca.ab.ca) and ask us a question we'll address in the session. The session will be posted to RECA's website afterwards. Please also take a moment to fill out the [Strategic Planning form](#) on RECA's website. The Industry Council and the Board of Directors will use your feedback to set the strategic direction of RECA. We'll also be hosting broker forums for brokers and broker delegates soon—if you're interested in attending, please email us.

We really hope to see a high level of engagement from our sector. It's important for us to hear from you firsthand and for you to get to know your Industry Council members. You'll see we have a pretty talented group of folks—one of which, Laura Sharen, has just been recognized as Member of the Year by BOMA Edmonton. Congratulations, Laura! We recognize and appreciate your expertise and dedication to the profession and the Commercial Industry Council. Ben Van Dyk and Brittane Laverdure round out our capable group, bringing years of industry and governance experience to the table.

# Mortgage Broker Industry Council Update

*A message from your Chair, Gord Appel*

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*On December 1, 2020, Gord Appel was appointed by the other Mortgage Broker Industry Council members to be its first Chair. Mr. Appel formerly served as the Alberta Mortgage Broker Association (AMBA) president and brings 16 years of experience in the mortgage industry. He is currently a managing partner at Axiom Mortgage Solutions.*

The Mortgage Broker Industry Council has been hard at work these past five months. Please read on to see what we've been working on and learn about some of the important upcoming engagement opportunities.



## Education Divestment

When the *Real Estate Amendment Act 2020* came into force on December 1, 2020, it stated that licensing education must be divested from RECA by December 1, 2022. We are collaborating with the other Industry Councils to ensure we take a consistent approach, which includes creating core competencies for mortgage industry professionals and education requirements that we'll impart to approved third-party providers. We will consult with mortgage industry stakeholders on competencies and education outcomes in the near future. Please keep an eye on your inboxes so you can make your voice heard. This initiative is a priority for us in the coming months and I hope to share more information with you all soon.

## At the Industry Council Table

At our next Industry Council meeting we will continue to work on education divestment. We will also be discussing what we believe the criteria for mortgage licensees wanting to stand for election (to the Industry Council) should be, and passing our thoughts on to the Board of Directors as they develop the election Bylaws.

We will also continue our discussion of the increase in condition-free offers mortgage licensees are seeing come across their desks lately. I'm happy to report that upon hearing from licensees that it was a growing concern, the Industry Council directed RECA Administration to prepare communications for consumers about the risks of condition-free offers, and within days a consumer alert was published and a digital marketing campaign was launched. I look forward to taking further proactive action on consumer protection when the Industry Council becomes aware of issues. So let us know if you

see anything concerning in your day-to-day business that licensees or consumers would benefit from knowing.

### Engagement Opportunities

On May 27, the Industry Council will be hosting an online engagement session via Zoom and I encourage you to [register](#) to attend. I will be providing an explanation of how we operate within RECA's new governance structure, an update on our recent activities, and our priorities for the coming months. This session is a great opportunity to meet your Industry Council and ask us questions.

If you can't make the session, you can reach us at: [MortgageIC@reca.ab.ca](mailto:MortgageIC@reca.ab.ca) and ask us a question we'll address in the session. The session will be posted to RECA's website after the fact.

We want to hear from you! In the next couple of months, watch for information about a Broker Forum and other informal groups to discuss the latest regulatory issues we are seeing in the mortgage industry. All managing brokers or broker delegates that are interested in attending these meetings, please email [MortgageIC@reca.ab.ca](mailto:MortgageIC@reca.ab.ca).

Take some time to provide feedback through the [Strategic Planning form](#) on RECA's website. We will use the feedback gathered from the form, and from the other engagement opportunities, to set the priorities for us as an Industry Council, and to help inform the strategic planning process of RECA's Board of Directors. I strongly encourage you to participate in any and all engagement sessions and provide your feedback to ensure the mortgage trends and issues you see in your day-to-day business are captured. I look forward to hosting you all on May 27 and learning more about how our Industry Council can work to serve you, our industry, and the public interest.

# Residential Property Manager Industry Council Update

*A message from your Chair, Don Newell*

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*On December 1, 2020, Don Newell, FCPA, ICD.D, was appointed to the Residential Property Manager Industry Council by the Minister of Service Alberta, and was selected as Chair by the other Industry Council members. Mr. Newell brings over 40 years of public accounting and business experience. He recently retired from Deloitte Calgary as a senior partner, with previous experience in Toronto and Saskatchewan, serving a variety of real estate, manufacturing, wholesale, technology and financial organizations.*



It's been a busy and productive five months on the Residential Property Manager Industry Council. Here's a brief update on what we've been up to recently.

## Education Divestment

The Industry Council is focused on having pre-licensing education in place for condominium managers by December 1, 2021. To accomplish this, we first need to develop the required Competency Profiles with Learning Objectives. In March, we sent a survey to condominium management stakeholders regarding the proposed competencies for condominium managers. We are now working on the Learning Objectives with the assistance of the Condominium Manager Implementation Advisory Committee. We will soon be consulting with industry stakeholders on these proposed learning objectives. Please keep an eye out for the notification to provide your feedback.

We have been working with the other Industry Councils and the Board on the development of a common education framework. We will soon be consulting with stakeholders on this as well.

Once the consultation processes are complete and the Competencies and Learning Outcomes and Education Frameworks are approved by our Industry Councils and Board and, where appropriate, by the Minister of Service Alberta, we intend to communicate with potential course providers.

The condominium sector will be the first area of RECA to go through the third-party provider process. All course providers meeting the course and course provider requirements will be recognized as course providers. We look forward to providing further updates.

In the meantime, I encourage you to provide feedback on the proposed upcoming consultations. Your feedback is crucial to ensuring that we get education and pre-licensing right from the beginning.

### Condominium Management

We anticipate that licensing of all classes of condominium management will be in place on December 1, 2021. Condo managers who are currently working in the field and meet certain experience requirements will be given the opportunity to challenge the appropriate exam. The Industry Council is currently working on the eligibility criteria for those who wish to challenge the exams. We will inform all stakeholders once we have made our decisions on the criteria.

### Enforcement Under New Act

On March 8, the Industry Council issued its [first suspension](#) of a licensee. This is the first time an Industry Council carried out a suspension under RECA's new governance model in accordance with the new Act. This is a responsibility the Industry Council takes seriously, as RECA's principal mandate is consumer protection. The Residential Property Manager Industry Council will always strive to do what is best for the Alberta consumer, and enforce the standards of practice that all licensees must follow.

### Upcoming Stakeholder Engagement

If you haven't already, please [register](#) for our upcoming online engagement session on **Wednesday, May 19, 2021, at 9 a.m.** You can always connect with the Industry Council at [ResPmIC@reca.ab.ca](mailto:ResPmIC@reca.ab.ca) or send us a question and we'll try to answer it during the Q&A period of the online session. After the online engagement session is over, it will be posted to RECA's website so you can view it afterwards if you cannot make the session live.

Please also take a moment to provide your input on [RECA's Strategic Planning forms](#). The Industry Council will review all stakeholder input from these questionnaires.

We'll also be hosting broker forums for brokers and broker delegates soon—if you're interested in attending, please email us.

# Residential Real Estate Broker Industry Council Update

*A message from your Chair, Sano Stante*

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*On December 1, 2020, Sano Stante was appointed by the other Residential Real Estate Broker Industry Council members to be its first Chair. Mr. Stante has been a real estate licensee for 35-years and was elected to the Industry Council by his industry peers in November 2020. Mr. Stante is currently an associate broker with Re/Max Real Estate (Central) in Calgary, and has served many years as a director of CREB®, including a term as President in 2011, many years as a director at the Canadian Real Estate Association, and as Chair of Attainable Homes Calgary.*



The past five months have been incredibly busy for the Residential Real Estate Broker Industry Council as we work to fulfill our regulatory mandate. As you all know, RECA's governance was 'on pause' for about 18 months as the governance changes were developed and implemented by Service Alberta. I liken it to returning to the Cabin after being away for the year. We are dusting off the furniture and everyone is getting comfortable again.

## Work So Far

As my fellow Chairs have indicated, education divestment is a top priority for our Industry Council. RECA must divest itself of licensing education by December 1, 2022. This does not mean it can't happen before then, and we will not delay any process in the divestment. There's a lot of work that must be done and we remain committed to properly hand off education in an open, fair, and transparent process.

We must set the education requirements for courses and course providers. Primary to this is establishing the competencies and learner outcomes. These competencies are currently being established and we will be consulting with all stakeholders throughout this process. Once completed, all of the decisions made regarding education divestment must ultimately be approved by the Minister of Service Alberta.

The Industry Council has also undergone a comprehensive onboarding process, mandatory governance training, and begun stakeholder engagement.

Stakeholder engagement will be an important part of everything the Industry Council does. Right out of the gate we had discussions with stakeholders to develop a master list of potential items to discuss as agenda items at our first meetings. To accommodate

everything we needed to discuss, we doubled the number of meetings in the first three months. While we have a long list of overdue housekeeping items to attend to, we are also committed to discussing strategic items on every agenda. Some of these initial items included discussing a mentorship process for new licensees, reviewing the Residential Measurement Standard (RMS), and reviewing concerns associated with the disclosure of conditionally accepted offers.

We are committed to consulting with stakeholders on all these items, and any changes to the standards must be approved by the Minister of Service Alberta.

We held our first Online Engagement Session on April 26. I would like to thank the more than 200 people who registered to attend. I encourage you to watch [the session](#), and to take part in our other engagement opportunities. Reach out to the Industry Council through the [ResIC@reca.ab.ca](mailto:ResIC@reca.ab.ca) email address, and check for new consultations, meeting minutes, and more on the [Industry Council webpage](#). Let us know your thoughts on RECA's strategic direction by filling out the [Strategic Planning form](#). We will also be hosting new Broker Forums soon.

If you are a broker or broker delegate and you would like to participate in the discussion, please let me know at [ResIc@reca.ab.ca](mailto:ResIc@reca.ab.ca).

### What's on the Agenda Next?

Very shortly, all residential real estate licensees will be receiving a national survey on the core competencies for residential and commercial real estate professionals. This is part of a national effort to harmonize real estate competencies to allow for labour mobility between provinces. This is also part of the Industry Council process for the setting of the competencies and learner outcomes required for education divestment. I urge you to take the time to complete the survey. Your feedback is an important consideration in the setting of the new competency profiles which sets the future direction of education for our industry.

The Industry Council will provide input to the Board of Directors as they work to set new Bylaws concerning eligibility for Industry Council elections, and will continue discussions on mentorship, RMS and non-reporting of conditional sales. Future agendas will continue to discuss strategic issues, as well as take a renewed focus on rules and standards. We invite your input and suggestions regarding emerging issues such as new business models, crypto-transactions, and new-media advertising.

I look forward to getting the entire sector engaged with the Industry Council. We are a self-regulated industry, and to keep it that way we all have to do our part in a constructive, positive fashion. Let me know what you think. What issues are you seeing? Are there any regulatory requirements that don't have a public interest objective? Are there any regulatory requirements that could achieve the public interest objective in a way that impedes business less?

I want to hear from you!

# COVID-19 and Real Estate: An Update

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The Government of Alberta has introduced new public health restrictions for high case regions of the Province, effective today. Please take a moment to [review the restrictions](#) and make sure you follow them while working and at home.

The new restrictions do not change the existing public health requirements for licensees when dealing with clients or the public. All licensees must continue to abide by the strict requirements for public safety they have been practicing for more than a year now, and must continue to follow the instructions of buyers and sellers regarding access to property.

## Increase in Complaints

RECA has seen a sharp increase in complaints relating to buyers and buyer's representatives not following the seller's requirements for viewing the property during the COVID-19 pandemic. Buyers and their representatives must follow the requirements they agreed to prior to entering a property, including what PPE they must wear, where they can go, what they can touch, and how many people can attend. This is a matter of public safety, and should be taken extremely seriously by all parties.

## Licensees and COVID Precautions

When COVID-19 was identified in Alberta in the spring of 2020, real estate and related services were named essential business by the Government of Alberta. This meant that licensees were able to continue trading and leasing real estate as well as deal in mortgages throughout all stages of Alberta's COVID-19 response. However, it also meant that licensees would need to take extra precautions to keep themselves and others safe.

In order to assist licensees with taking on these new responsibilities, RECA gathered information and created a [COVID-19 portal for licensees](#). Included with this information are a number of checklists. Licensees are encouraged to use the COVID-19 property access checklists with their clients and agree to the conditions for how you will interact and how buyers will access their property, in writing.

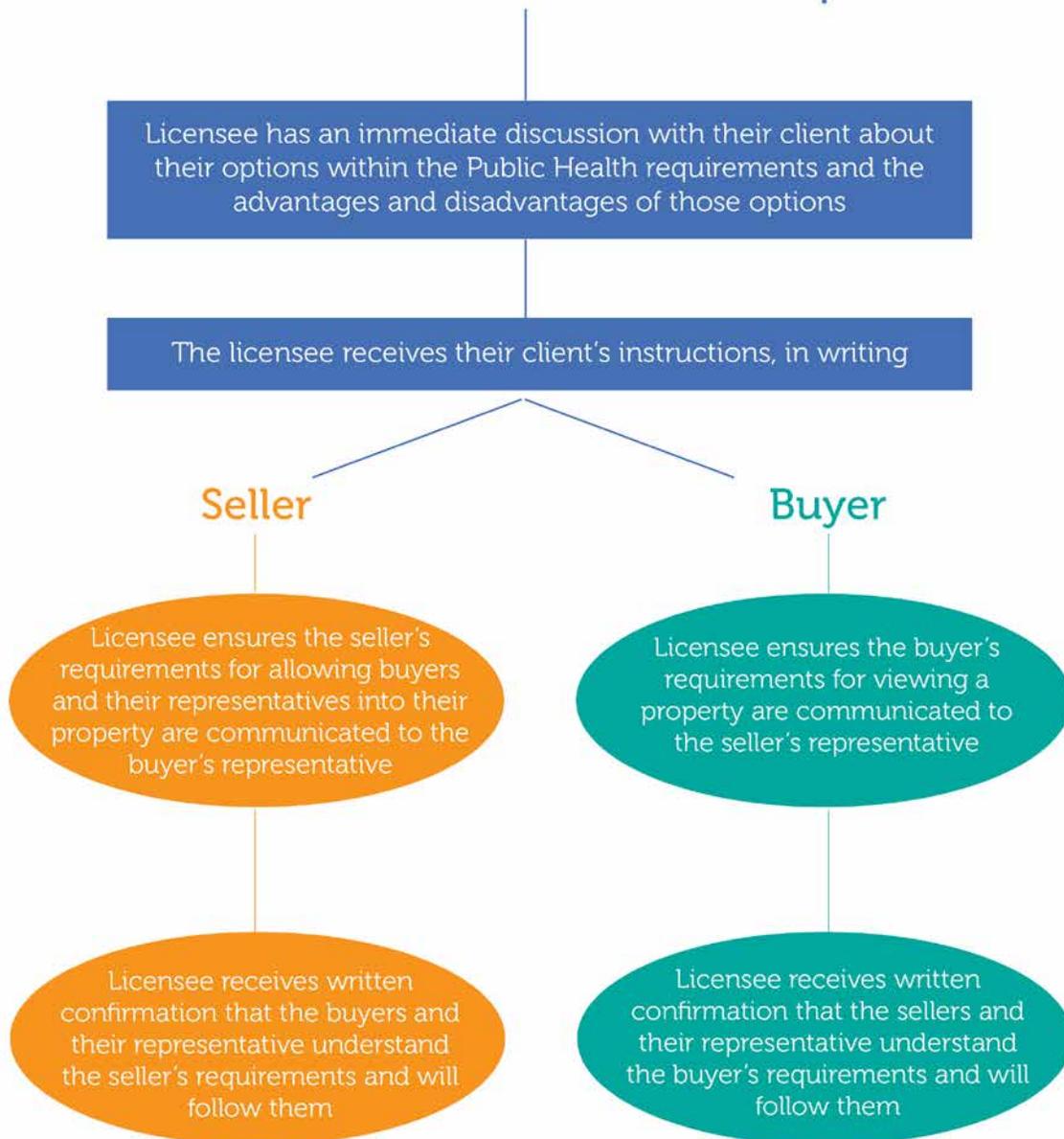
The sellers' representative is primarily responsible for ensuring buyer representatives are aware of the sellers' instructions around viewings during the COVID-19 pandemic. Licensees who are representing home sellers must be sure to convey their clients' instructions, in writing, to the potential buyers' representatives and get written confirmation that the potential buyers understand those instructions prior to scheduling any viewings.

That said, the buyers' representative must exercise reasonable care and skill when a property is under their care and control. Licensees who are representing the buyers must ensure they obey the instructions of the seller when showing a property. It is of utmost importance to ensure licensees are not putting their clients' health at risk or risk the health of any parties involved in the transaction.

Property owners must have confidence their instructions will be followed. This is especially important during the COVID-19 pandemic, which presents additional risk when individuals enter a property.

Licensees can access checklists and other information on staying safe during the [COVID-19 pandemic on reca.ca](https://reca.ca).

## Licensee Learns of Public Health Requirements



# The Timing of a Home Inspection Could Impact Your Client's Mortgage

*A Reminder from Gary Siegle, Mortgage Broker Regulatory Compliance Advisor*

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Home inspections are a part of nearly every offer to purchase. Did you know that the timing of a home inspection could have an impact on your client's mortgage commitment?

RECA has seen an increase in calls about deals collapsing due to financing falling through after a home inspection changes aspects of a deal. Real estate and mortgage licensees should inform their clients of how home inspections could impact their financing, and how the timing of an inspection could be the difference between a deal closing or collapsing.

Here are some scenarios that illustrate why it's important to know when a home inspection is completed during the property sales process and how it can impact the deal for both the seller and the buyer.

## **Scenario 1: Home Inspection After Financing is Approved**

What happens when a home inspection is completed after financing is approved? During the home inspection the inspector could identify issues with the property that may lead to a price reduction and/or a holdback for the seller. This could lead to the seller being required to complete work on the property prior to closing. However, the buyer does have the option to waive financing conditions making it a firm sale.

Depending on what option the buyer takes, they would then be required to submit the revised purchase terms to their lender.

This could lead to various lender reactions:

- the lender could request a copy of the home inspection or request a separate report to identify any additional risk concerns
- the lender may request an appraisal, which could change the lending value, resulting in the lender changing the financing amount and requiring a higher down payment
- the lender may decline the new terms completely

There is no certainty that a lender will approve any changes that are being made to the borrower's mortgage commitment. It is important to know that the revised terms of financing may make it impossible for the borrower to close, and they could lose their deposit altogether, resulting in the deal collapsing.

Should work be required or new terms be required to be sent to the lender, the buyer might opt to delay waiving the financing condition. Delaying gives the buyer better protection and more options. The seller will have to agree to any extension to the condition deadline.

If the buyer accepts the revised lender terms, they can waive the financing condition, making it a firm sale. However, if they do not accept the revised lender terms, the financing condition would not be waived, and the buyer's deposit is returned.

## Scenario 2: Home Inspection is Completed After Financing is Approved - Financing Condition Waiver Delayed

Before the financing application is sent to the lender, an initial offer is accepted by the seller. In this scenario the buyer would then immediately have a home inspection completed. If issues arise during the home inspection that result in a price reduction and/or holdback, the seller could be required to complete work prior to closing.

If this happens the initial offer would be revised, and the purchase terms would then be submitted to the buyer's lender for the first time. The lender would establish the terms of their financing based on the full knowledge of the property's condition. The financing conditions would not be revised as in the previous scenarios as this is the first application.

If the lender terms are accepted by the buyer, they would waive the financing condition and make it a firm sale. However, if the lender terms are not accepted the financing condition would not be waived, and the buyer's deposit is returned.

In all situations the key thing to know is that a home inspection could have significant impact on a deal. It's best to stay informed about the timing of your clients' home inspections so you can help them avoid a scenario where the lender changes the loan terms or backs out making it impossible for the buyer to complete the transaction and therefore lose their deposit.

# Home Inspection Issues

*A Reminder from Doug Dixon, Real Estate Regulatory Compliance Advisor*

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Home inspections are a common part of real estate transactions, so it shouldn't come as a surprise that mistakes and misunderstandings arise. Remember that the expectation is that the buyer's representative will be present at the inspection, unless otherwise agreed to in writing by the seller.

Recently RECA has seen more complaints surrounding home inspections, so I'd like to take a moment to remind licensees about some common examples of inappropriate activity:

- **Extra people:** during inspections, extra people are not allowed into the property. Sometimes buyers take advantage of access to the property to show other family members the property they're buying. Unless these individuals are listed in the purchase contract, or seller has given their permission, extra people cannot attend the inspection.
- **Other types of inspections:** other types of inspections must be specified in the purchase contract, or permission from the seller must be granted. In a recent example, a buyer brought in a company that does inspections for bed bugs where a sniffer dog searched the entire property, which included climbing over the seller's furniture. This type of inspection was not granted by the seller and should have never occurred.
- **Destructive testing:** inspections must not damage the property. If you think an inspection may damage a property, the seller must be consulted, and written permission must be obtained before anything happens. Examples include checking under carpet for hardwood floors or checking behind drywall for insulation or mold. If the seller does not give their permission, the buyer, their representative, and the inspector could be responsible for any expenses to repair the damage.



- **Property status:** the property must be left in the same state it was before the inspection started. This includes the following:
  - properly securing the property when finished. The buyer's representative must check all windows and doors to ensure they are the way they were when they arrived for the inspection.
  - ensure that all lights, thermostat settings, etc. are set the way they were found.
  - if any furniture or belongings are moved during the inspection, they must be returned to their previous location.
  - ensure any messes are cleaned up. One we often see is insulation falling out of the attic when an inspector opens a roof access panel.
  - make sure any pets that may be on the property remain in the same area they were found in. For instance, if a dog or cat is confined to a specific room, you must make sure that is where they are when you leave the property. This includes not letting a pet out of the house or letting one that is outside into the house.

The important takeaway from all of this, is that licensees must abide by the terms of the inspection laid out in the purchase contract or be given permission from the seller, in writing, to avoid any complications or disagreements. For more information about home inspections, including a consent checklist, see RECA's Information Bulletin: [Access to Property Home Inspections](#).



# Conditional Offers

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RECA's Mortgage Broker Industry Council (MBIC) has expressed concern over the recent increases of condition free offers reported by mortgage licensees. MBIC is asking that real estate licensees work with their clients to ensure that these offers are really in their clients' best interests. Remember to encourage your clients to talk to their mortgage broker or their lender throughout the offer process.

In a competitive market, your buyer client may feel extra pressure to tailor their offers to appeal to the seller. In a multiple-offer situation, the client might ask you about making a

condition-free offer in order to stand out from the other buyers.

It is your job as a licensee to ensure your client understands this strategy is not without risks.

To start, get to know your client. What are their needs? What are their resources? Have they bought property previously or is this their first time? Will this house be their primary residence or are they looking to flip it? What can they afford? Discussing these factors with your client can help them understand the risks involved with making a condition-free offer, as well as their tolerance for risk. If they have further questions, urge your client to seek legal advice on the matter.

Remember to document that you have had this discussion with your clients and that you have encouraged them to seek legal advice, and include it in your brokerage file.

If after learning of the risks, your client still wishes to proceed with a condition-free offer, it is in their best interest for you to perform due diligence on the property prior to submitting the offer. Areas for you to explore, depending on the property, include completing a comparative market analysis, performing a title search, asking the seller representative about material latent defects or other known facts about the property, and talking to neighbours about known issues regarding the property.

Make sure you document any material information you gathered as well as the advice you provided your client based on the information. Should your client wish to proceed with a condition-free offer immediately, you must obey their lawful instructions. If you've performed your due diligence and disclosed all the necessary information, you can be confident that you acted in the best interests of your client.

## Are you a mortgage brokers who holds a certificate to sell credit related insurance: It's time to renew your certificate

The *Alberta Insurance Act* (the "Act") requires that every business that acts as an insurance agent must hold a valid certificate of authority. The Act also requires that a business that is issued a certificate of authority must appoint a Designated Individual ("DI") who is responsible for receiving all notices and documents from the Alberta Insurance Council ("AIC").

This requirement applies to Mortgage Brokerages as a sales finance company which sell credit related insurance. If you require additional information on licensing please contact the Alberta Insurance Council at [licensing@abcouncil.ab.ca](mailto:licensing@abcouncil.ab.ca)

If your Mortgage Brokerage currently holds a valid certificate(s) to sell credit related insurance, **your license(s) will expire on June 30, 2021** and must be renewed prior to that date if you wish to continue doing business. The AIC will email renewal notifications to all license holders through their Designated Individual(s) in early May.

If you are not the Designated Individual ("DI") for the license issued to your business, a new DI must be appointed. The new individual must register for their own CIPR number. CIPR numbers are not interchangeable. The new prospective DI can submit an online application by logging into the AIC portal. If the agency name under which you conduct insurance business or the sponsoring insurance company has also changed, the DI must update those changes through an online application. These updates cannot be made on renewal application(s). It is your responsibility to ensure that the agency and DI information provided to the AIC is current and accurate.

Not sure if you currently hold an active insurance agent's certificate of authority? Search for your business name from the link Other Resources-Popular Lookups-Agent and Agency Search at [www.abcouncil.ab.ca](http://www.abcouncil.ab.ca).

If you have any other questions, please email [licensing@abcouncil.ab.ca](mailto:licensing@abcouncil.ab.ca)

# News Bytes

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## National Survey on Real Estate Competencies Coming Soon!

Real estate licensees across Canada will soon receive an invitation to provide feedback to a set of proposed entry-to-practice competencies for residential and commercial real estate. The competencies were developed by the Real Estate Regulators of Canada (RERC), a group made up of real estate regulators across the country, including RECA.

The competencies will be used by regulators, third-party education providers, existing professionals, and more to help ensure all licensees, regardless of jurisdiction, are competent in key areas important to not only doing their work, but doing their work in a way that best helps and protects the consumer.

Harmonized national competencies will also allow for easier labour mobility between provinces.

Keep an eye on your inbox next week for your invitation to provide feedback through validation surveys.

# News Bytes

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## Watch an Online Engagement Session

Haven't had a chance to meet our new Board of Directors or the Industry Council for your sector yet? No problem—you can watch two sessions on YouTube:

- [Board of Directors](#) (Held April 14)
- [Residential Real Estate Industry Council](#) (Held April 26)

Mark your calendars for the upcoming mortgage, residential property management (including condo management), and commercial sector engagement sessions. This is an excellent opportunity to meet your Industry Council members and ask them questions! Register for the Zoom session:

- Residential Property Manager Industry Council **May 19 @ 9am** - [Register](#)
- Mortgage Broker Industry Council **May 27 @ 9am** - [Register](#)
- Commercial Real Estate Broker and Commercial Property Manager Industry Council **June 2 @ 9am** - [Register](#)

Have a question or a topic you'd like to see addressed in the session? Send an email to the council:

- Residential Property Manager: [ResPMIC@reca.ab.ca](mailto:ResPMIC@reca.ab.ca)
- Mortgage Broker: [MortgageIC@reca.ab.ca](mailto:MortgageIC@reca.ab.ca)
- Commercial Real Estate and Commercial Property Manager: [commIC@reca.ab.ca](mailto:commIC@reca.ab.ca)

And remember, you can email the Industry Councils or the Board at any time, or provide your feedback to the [Strategic Planning form](#) on RECA's website.

We want to hear from you!

## RECA Management

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Director of Education Programs

WARREN MARTINSON

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(Acting Executive Director)

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