



RESIDENTIAL REAL ESTATE BROKER INDUSTRY COUNCIL

9:00 am, Tuesday, June 14, 2022

Virtual Teams Meeting

MINUTES

In Attendance: Bill Briggs
Brad Hamdon
Brad Kopp
Sano Stante, *Chair*

Resources: Russ Morrow
Charles Stevenson
Stacy Paquin
Bryan Douey (*Item #9*)

Absent: Erika Ringseis

Recording Secretary: Christina Harrington

1. Call to Order

The meeting was called to order at 9:00 am

2. In-Camera Session with the Industry Council only

The Residential Real Estate Broker Industry Council (the "Industry Council") moved in-camera.

3. Approval of Agenda

The Chair presented the agenda of June 14, 2022.

***MOTION:** The Residential Real Estate Broker Industry Council approves the June 14, 2022, meeting agenda as presented.*

Moved by Brad Hamdon,

Seconded by Bill Briggs

Carried

4. Conflict(s) of Interest Declared

No conflicts of interest were declared.

5. Chair's Opening Remarks

The Chair reported that discussions held at the Broker Forums and the Spring Stakeholder Engagement Session were constructive and will shape future Industry Council initiatives.

The Chair advised that two RECA participants are invited to attend an engagement session conducted by Alberta Municipal Affairs to inform a review of new home buyer policies. The information-gathering session will allow the provincial government to improve consumer confidence in new home buyer programs. Industry Council Member Brad Kopp volunteered to attend the session as a participant.

6. Consent Agenda

The Industry Council reviewed the consent agenda, which included the minutes of the meeting of April 12, 2022, the Action Register Update, and the Regulatory Activity Scorecard.

***MOTION:** The Residential Real Estate Broker Industry Council approves the minutes of the meeting of April 12, 2022, and receives the Action Register Update, and the Regulatory Activity Scorecard as information, as presented within the meeting package.*

***Moved by Brad Kopp,
Seconded by Brad Hamdon
Carried***

7. 2022/2023 Calendar – RECA Board and Industry Council Meetings

Management introduced the 2022/23 RECA Board of Directors (“Board”) and Industry Council calendar. In accordance with the *Real Estate Act* (“*REA*”) Bylaws, the Chair will recommend the proposed schedule to the RECA Board Chair.

8. RECA Board of Directors Report

The Industry Council’s Board member reported on the activities of RECA Board.

7. Education & Communications Report

Management advised RECA will continue its divestiture of education by the November 30, 2022 legislated deadline.

8. Re-Licensing Education Options

Management presented re-licensing education options. The prescriptive model requires a licensee to complete a specific course, as deemed relevant to the public interest by the Industry Council. The courses are provided by a third-party course provider. The reflective model allows a licensee to create a self-reported professional development plan, tailored to their learning objectives. The third model is a hybrid of both. The Industry Council may also consider potential education gaps to inform their selection of a re-licensing education model.

ACTION: The Industry Council directed that the form of re-licensing education will be prescriptive, with the flexibility to transition to a reflective model, or hybrid model, as industry trends develop.

9. Stakeholder Engagement

Management reported that the May 25, 2022 Stakeholder Engagement Session was well attended. Questions were submitted online and were answered throughout the session or responded to by email. Broker Forums held in Edmonton and Calgary allowed for robust discussion.

10. Rules Review Discussion

At the direction of the RECA Board, Management presented the REA Rules Review initiative. The review will be conducted over a two-year period, in broad consultation with stakeholders, and in several phases. A Steering Committee will consult and recommend proposed changes to the Industry Councils. The Steering Committee will be comprised of seven members from each industry sector and the Committee Chair will be a member of the public and not a Board or Industry Council member.

ACTION: The Industry Council appointed Council Member Brad Kopp as the industry sector representative on the Rules Review Steering Committee.

11. Industry Council Chair Elections

Management advised that the current Chair's term will expire November 30, 2022. Pursuant to REA section 7.1(6) and REA Bylaw sections 3.18 and 3.19, the Industry Council shall elect a new Chair at its final meeting of the year (September). Nothing precludes the current Chair from running in the September 2022 Chair election.

12. Price Fixing and Commission Profit Disgorgement

• Price Fixing

The Chair presented the CBC report on rising real estate commission prices in Ontario, and the resulting federal class-proceeding lawsuit wherein the Plaintiff alleges brokerages and their co-conspirators "[...] conspired, agreed or arranged with each other to fix, maintain, increase or control the price for the supply of buyer brokerage services for residential real estate in the Greater Toronto Area during the Relevant Period". The Plaintiff claims the Toronto Regional Real Estate Board (TRREB) and Canadian Real Estate Association (CREA) were aware of the alleged price-fixing commission practices of the brokerages.

The Industry Council discussed alleged price-fixing and anticompetitive behaviour in Canada's real estate market. Section 24(1) of the REA prohibits a commission/fee "based on the difference between the price at

which real estate is listed for sale and the actual sale price" (differential). Buyer brokers' commissions are set by competitive market forces in Alberta, in comparison to other major cities.

REA Rule s.41(g) states; "Licensees must: practice in strict accordance with the Act, Regulations, Rules, Bylaws and any other laws that govern trading in real estate, mortgage transactions, or property management, or condominium management services in Alberta;".

This includes, among other statutes, the federal *Competition Act*. The Industry Council is confident that the REA and Rules deter practices of price-fixing and support consumer protection.

- **Commission Profit Disgorgement**

Management presented the *Report of the Independent Advisory Group on conduct and practices in the Real Estate Industry in British Columbia* (June 2016) ("Report"). The Report explored causes of extreme price escalation in the BC real estate market. The Report recommended that the Real Estate Council of British Columbia engage in commission profit disgorgement; being the clawing-back of proceeds gained through misconduct. The Industry Council does not currently have the legislative authority to recuperate funds through profit disgorgement. Such authority would require a legislative amendment and ministerial consultation.

ACTION: The Industry Council will monitor commission practices in Alberta and will place Commission Profit Disgorgement as a standing item within the Action Register.

ACTION: RECA's Registrar will distribute the *Cullen Commission Report on Anti-Money Laundering* (British Columbia), and the British Columbia Financial Services Authority report on "*Enhancing Consumer Protection in British Columbia's Real Estate Market – Report to the Minister*" (May 2022) to the Industry Council.

13. Using an Escalation Clause in a Multiple Offer Situation

Management presented the RECA Regulator News Circulation "*Using an Escalation Clause in a Multiple Offer Situation*" (May 24, 2022), which states "An escalation clause in a real estate contract is a provision allowing for an increase to the buyer's offer price, activated only if a competing offer is submitted that is higher than the buyer's original offer."

Management discussed that "some" brokerages are not well-versed in escalation clause(s) and "some" may instruct their clients to avoid these types of clauses. These observations are based on feedback reported by licensees and gathered through the Customer Relationship Management system.

14. RMS Committee Update

Council member Brad Kopp reported that the RMS Committee met on March 1, 2022, and continues its outreach to harmonize RMS practices.

15. In-Camera Session with the CEO

The Industry Council went in-camera with the CEO.

16. In-Camera Session with Industry Council only

The Industry Council went in-camera.

17. Termination

MOTION: The Residential Real Estate Broker Industry Council terminates the meeting of June 14, 2022.

*Moved by Brad Kopp, duly seconded
Carried*

The meeting terminated at 12:30 pm

18. Next Meeting(s)

Friday, September 16, 2022

Approved at Calgary, Alberta on September 16, 2022

Sano Stante
Industry Council Chair