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Alberta

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# THE REGULATOR

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# All Licensees



# WHAT'S HAPPENING AT RECA

RECA's modernized governance model consists of a Board of Directors and four Industry Councils representing each industry RECA regulates. In November 2023, new Council Members were elected to each Industry Council. The first quarter of 2024 marked the first quarter term for the new Councils.

This general summary includes the key activities of the Board and all Industry Councils over the last quarter.

## 2023 ANNUAL REPORT & AUDITED FINANCIAL STATEMENTS

RECA's Annual Report and Audited Financial Statements for the fiscal year ending September 30, 2023, were published on January 31 and are [available on reca.ca](#). Licensees are encouraged to read this report thoroughly, as it includes a comprehensive and transparent accounting of RECA's activities and finances over the year.

It is important to note that RECA's financial results on September 30 include the largest portion of revenue, obtained annually from the licensing fees due on September 30. This revenue is drawn down over the next fiscal year.

RECA's 2022-2023 Financial Statements were audited by BDO Canada LLP. The full, audited statements are available [on reca.ca](#).

## UNPRECEDENTED INDUSTRY INCREASE

In 2022 the number of new RECA licensees increased by over 175% when compared to 2021. In 2023, a similar industry increase occurred.

RECA currently has approximately 20,000 total licensees, the largest in history.

This unforeseen and unprecedented level of individuals entering RECA's regulated industries over the last couple of years, along with an unprecedented level of sustained active licences, has contributed to a surplus in revenue.

Accordingly, RECA plans to issue a licensing fee credit. Eligibility and timing of the credit will be determined and announced once the annual budget is set in July.

## RULES REVIEW – PHASE 2– PART 2

The Rules Review continued during the first quarter.

Part 2 of Phase 2 launched on March 18 when all stakeholders should have received a unique survey link via email. This phase includes feedback on any proposed Rule changes regarding Standards of Practice (Rules 41-80.89). Licensee feedback is currently being collected through the survey as well as two town halls which took place during the last week of March and the first week of April. Feedback has also been solicited at ongoing brokerage presentations.

Part 3 of Phase 2 will begin shortly and will focus on any proposed changes to records, reporting, and the remaining Rules (Rule 82-118.3 plus Schedules 1-5).

Please be aware that any proposed changes in both Part 1 and 2 are proposals only. To date, nothing has been decided nor implemented by RECA's Industry Councils. Each Industry Council will continue to review the feedback from licensees and stakeholders on all the proposed changes, along with the recommendations of the Rules Review Steering Committee, before making any decisions. All stakeholders are strongly encouraged to provide any additional feedback to [consultation@reca.ca](mailto:consultation@reca.ca).

Phase 3 will be a final stakeholder consultation on any potential issues that could arise should the final proposed Rule changes come into force.

The Rules Review consultation will continue until this fall.

## BELOW GRADE MEASUREMENT STANDARD (BGMS) POSTPONED

The implementation of the BGMS, which was to take effect on January 1, was postponed by the Residential Real Estate Broker Industry Council in late December.

The BGMS is the new proposed standard licensees must use to measure below grade space should their client agree to advertise it as an additional measurement to the Residential Measurement Standard (RMS). It was not planned to be a mandatory measurement when advertising living space, nor part of the RMS.

The BGMS is still under consideration by the Industry Council. To learn more, please [visit reca.ca](http://reca.ca).

## IMPROVEMENTS TO SEMI-DETACHED AND TOWNHOUSE MEASUREMENTS

A reminder that beginning January 1, licensees need to measure semi-detached and townhouse properties using the exterior wall at the foundation. If the thickness of the demising wall(s) cannot be determined, the thickness of an exterior wall should be used.

Under the previous RMS, all semi-detached and attached properties were measured using interior (paint-to-paint) measurements. Please note that attached, apartment-style properties continue to be measured using interior measurements.

This change for semi-detached and townhouse properties has simplified the measuring process and ensures measurement standards are more accurate for consumers.

## GET INVOLVED IN SELF-REGULATION

RECA is looking for residential real estate, condominium management, and mortgage brokerage licensees to join the Hearing Panel Roster. Roster members serve as decision makers as part of hearing and appeal panels under the *Real Estate Act* and Rules.

If you are an enthusiastic supporter of self-regulation with a genuine interest in maintaining and raising professional standards, visit [Hearings Information and Procedures on reca.ca](http://reca.ca) to learn more and apply.

# MEET YOUR STAKEHOLDER ENGAGEMENT TEAM!



Did you know that RECA has a Stakeholder Engagement Team?

RECA has many stakeholders, including Industry Associations, government, consumers, and other partners and regulators – but one of our most important stakeholders is the licensees in the four industries we regulate.

RECA's Stakeholder Engagement Team was created in 2022 to provide direct support to our various industry stakeholders. It is headed by Kristian Tzenov, RECA's Stakeholder Engagement Manager. His team exists to inform and educate RECA industry stakeholders on the *Real Estate Act* and its Rules. Gary Siegle is RECA's Regulatory Compliance Advisor for the Mortgage industry and Doug Dixon is RECA's Regulatory Compliance Advisor for Real Estate, Condominium Management and Property Management. Our Regulatory Compliance Advisors are here to guide brokers and broker delegates on legislative questions or concerns. While RECA's Information Services team is available to answer common questions from licensees and the public. Together the Stakeholder Engagement team works to ensure RECA's Stakeholders are well-informed.

This publication, the Regulator, is brought to you by your Stakeholder Engagement Team. Each quarter, the articles we publish focus on common issues or areas of concern we see in real time. We provide this information to you, our licensees, to enhance your practice and support the healthy regulation of our industries. We believe knowledge is power and that this regulatory advice helps to support a vibrant, well-regulated real estate, mortgage, property management and condominium management industry. We hope you benefit from the articles we share.

We'd like your advice on the medium we use to disseminate this advice. While we will continue to disseminate our stories delivered to your email, linked to our website blog and attached as a PDF document, please indicate if you would benefit from other modes of communication.

How would you like to see the Regulator Articles published in the future?

[Provide Input](#)

# ASK A REGULATORY COMPLIANCE ADVISOR (RCA)

Gary Siegle & Doug Dixon

As RECA's RCAs, we get a lot of questions. Here are some of the most common questions we received this quarter, answered.

**Q:** What activities are licensees obligated to inform their brokers of?

**A:** The *Real Estate Act* Rules (the Rules) s.40 requires an associate to report several things to the Registrar. Associates should also be reporting these items to their brokerage. There are various responsibilities under s.53 of the Rules that an associate broker or associate must abide by.

There is also a general requirement that associates must keep their broker informed of all trading activity that has taken place, and more importantly, if any issues arise with a transaction.

**Q:** What is the difference between a commission and a referral?

**A:** A commission is a fee paid to a brokerage for the services being provided relative to a trade in real estate. A referral fee is money paid to another brokerage or an unlicensed person for providing a lead (name and contact information of a potential buyer, seller or company) for a trade in real estate that results in a successful transaction.

**Q:** How does bankruptcy affect a licensee?

**A:** Bankruptcy proceedings must be reported to the Registrar at RECA. Typically, bankruptcy proceedings do not affect the

licensing status of associates; however, someone in bankruptcy proceeding cannot hold a broker licence.

**Q:** What is a bankruptcy proceeding?

**A:** A bankruptcy proceeding is an action included in the Bankruptcy Act – Consumer proposal (personal), Division 1 proposal (corporation), and Bankruptcy (personal and corporate).

**Q:** How do I report a bankruptcy to RECA?

**A:** You can notify the Registrar through your myRECA account when you are subject to bankruptcy proceedings. You must also notify the Registrar through your myRECA account when a company you own or are a partner, director, or officer of is subject to bankruptcy proceedings.

Do you have questions for RECA's Regulatory Compliance Advisors?

Get in Touch.

Real estate & condominium management advice for brokers and delegates:

Doug Dixon [ddixon@reca.ca](mailto:ddixon@reca.ca) 403-685-7920

Mortgage brokerage advice for brokers and delegates:

Gary Siegle [gsiegle@reca.ca](mailto:gsiegle@reca.ca) 403-685-7925

# DON'T BECOME AN UNWITTING PARTICIPANT IN MORTGAGE FRAUD

*By Andrew Brainard, RECA Investigator and Fraud Expert*

Mortgage fraud occurs when individuals intentionally deceive lenders, borrowers, sellers, and others to obtain mortgage financing. It undermines the integrity of the mortgage industry and could lead to significant financial losses for those involved. As mortgage licensees, it is crucial to recognize and address fraudulent activities promptly to protect both consumers and the industry.

Mortgage licensees play an important role in the mortgage process by collecting and transferring financial, legal, and other confidential information between borrowers and lenders. You have a responsibility to identify mortgage fraud red flags and take appropriate action.

While the *Real Estate Act* Rules do not explicitly mandate that licensees verify information provided to them, you must not submit information to a third party that you know or ought to have known was false or misleading. Licensees who mislead a lender or other stakeholder during a mortgage deal would be in breach of Rule 42(a), which prohibits making an intentional or recklessly misleading misrepresentation. They may also be in breach of Rule 42(b), which prohibits participation in fraud.

Licensees must always prepare to explain what steps they took to verify the information provided by the client. Failure to take reasonable steps to review documents and recognize mortgage fraud red flags may prove to be a failure to provide competent service, which is a breach of Rule 41(b). Always remember to document the steps taken to verify client information.





## KEY STRATEGIES TO COMBAT MORTGAGE FRAUD:

- know your client and assess whether their story “makes sense”
- when possible, meet with your clients in person
- carefully inspect all documents received from your client
- always assess whether the information obtained from your client aligns with your knowledge of that client

During investigations, RECA has identified fraudulent documents such as fake pay stubs, tax documents, gift letters, bank statements, and employment letters. These documents usually contain errors or omissions that, upon comparison, are easily identifiable as false or misleading. Licensees should not accept documents from third parties acting on behalf of clients, as this can increase the risk of receiving false or misleading information.

A client’s credit report is a crucial piece of information obtained from a trusted source. It can be used to verify client information. For example, information in the history section of the credit report could support a client’s employment status or address history. This is just one source of information you can use to verify a client’s client provided information.

Alternatively, use online searches to validate the status of an employer, location of a property, or other key information. Title searchers and public assessments can support claims made about the property itself. Using multiple sources of information can help verify inconsistent or questionable claims.

If you identify inconsistent information or red flags of fraud, search further to validate the claims. Always consult with your broker regarding any inconsistencies you may find, and if appropriate, question your client. If there is clear evidence that supports a fraud attempt, the matter should be promptly reported to RECA, law enforcement, the lender, and mortgage insurers. Each of these organizations have information on their websites on how to report mortgage fraud.

For additional information on recognizing fraud red flags, and your obligations as a mortgage licensee, please review the following Information Bulletins:

- [Mortgage Fraud Red Flags](#)
- [Prohibition – Fraudulent or Unlawful Activities](#)
- [Mortgage Brokerage – Avoiding Misrepresentations](#)

Please also visit the mortgage fraud section of [reca.ca](http://reca.ca).

Brokers and broker delegates are encouraged to reach out to Gary Siegle, Regulatory Compliance Advisor, Mortgage at [gsiegle@reca.ca](mailto:gsiegle@reca.ca) with any questions they may have regarding Mortgage Fraud.

# ENSURING LEGITIMATE SOURCES

by Andrew Brainard,  
RECA Investigator



Information can be power, but with great power comes great responsibility, especially when it comes to handling confidential information.

This article is a reminder of the importance of ensuring you use personal information ethically and legally.

## UNDERSTAND THE RISKS

Unauthorized access to confidential information can lead to serious legal consequences. It breaches ethical boundaries and violates Rules set forth by RECA, guidelines of the Office of the Privacy Commissioner, provincial legislation such as the Personal Information Protection Act (PIPA), and the legislation of other regulatory bodies.

Unauthorized access may not always be exactly what it sounds like. It's not necessarily about stealing personal information or hacking into databases without permission (although of course, those acts are bad, too). Sometimes it's online information found on a third-party website. Is permission required to use this information? The answer is almost always, yes.

Take, for example, a recent incident where a broker contacted RECA regarding a client

who received an email to their private address from a licensee who did not have legitimate access to the information. The licensee had not been given the email directly and did not have consent to use it. Upon inquiry, the licensee admitted to using a third-party service to obtain the email address. This example underscores the importance of obtaining consent. Even if the information is accurate, you shouldn't use it if you do not have permission.

## WHAT IS PERSONAL INFORMATION

In general, the information in question must be about an individual or lead to the identification of a specific individual for it to be personal and protected.

Common sense examples of identifiable information include, name, home address, home phone number, e-mail address, business address, and names of associates and family members. Information "about" an individual is identified as relating to or concerning the person. This includes banking information, transaction histories, mortgage and real estate documents, emails, and text messages. Basically, if the information permits or leads to the possible identification of an individual, then that information is deemed personal and safeguarded.

The information does not need to be recorded to be considered personal and protected. If the information is identifiable to an individual, its communication method is irrelevant. The information could be communicated via email, written document, or a telephone conversation. Personal information passed through a conversation may also trigger a breach of *Real Estate Act* and its Rules.

#### **PUBLICLY AVAILABLE INFORMATION:**

The public availability of information does not necessarily diminish its classification as personal or your obligations to protect that information.

Meaningful consent is a core element of Canadian privacy legislation. The best practice is to obtain consent from the individual before disclosing any personal information. Consent is only valid when the individual understands what they are consenting to.

The rule of thumb is that the information must be used with the same intent as it was collected. For example, if public information was collected on a trade website and intended to be used for that specific trade, then the information is protected, and its use is limited. Additionally, if private information is presented with publicly available information and the source permits the identification of a specific person, then all the information is considered private and protected.

#### **BEST PRACTICES**

First and foremost, consent must always be obtained. Whether it's from clients, potential leads, or third-party sources, always ensure you have explicit written consent before accessing or sharing confidential information, such as an email or physical address, personal information such as a birth date, or a place of employment. Additionally, vetting your sources is crucial. Take the time to evaluate third-party services and only use trusted websites and resources. Always double-check the accuracy of the information directly with the source if it was obtained second-hand. Remember, just because information is available does not mean you can use it. It may still be protected under legislation and its use could be limited.

#### **COMMON MISTAKES**

- avoid temptation to skip obtaining consent or access information through unauthorized means
- be wary of your source
- do not share information without obtaining informed written consent
- sanctions and penalties can occur when information was obtained or shared without consent

In the end, maintaining your integrity and safeguarding confidential information should be non-negotiable. By doing so, you not only protect the interests of your clients but also uphold the trust and integrity of the real estate industry.

If you have questions regarding information sources or would like to discuss this topic further, please reach out to RECA's Information Services team at [info@reca.ca](mailto:info@reca.ca).

# DO I NEED A WRITTEN SERVICE AGREEMENT FOR AGRIBUSINESS?

*By Kristian Tzenov, Stakeholder Engagement Manager*

The *Real Estate Act* Rules define “rural real estate” as real estate located outside a city, town, village, hamlet, or summer village that has its primary purpose as farming.

Rural real estate does not include:

- minerals in, on, or under that real estate
- real estate used primarily for extracting, processing, storing, or transporting minerals

Put simply, rural real estate comprises real estate that has its primary use as farming operations. Within the industry, this is commonly referred to as agribusiness. If you are trading in agribusiness real estate, you need to hold a commercial real estate licence.

In Alberta, written service agreements are required for residential real estate, mortgage brokerage, property management, and condominium management, and are recommended for all commercial real estate relationships, including those in agribusiness. These agreements help clarify the relationship between the parties involved, the services provided by the licensee, and the obligations and responsibilities of all parties. They also outline how personal information will be handled, compensation details, and the length and termination process of the agreement. You need to have a good reason to choose not to use a written service agreement in your agribusiness.

Imagine a problem arose with the contract and RECA is asked to investigate. The first question we would ask is “why wasn’t there a written service agreement in place?” We

have seen instances where a licensee chooses not to use a written service agreement and conflicts of interest or contractual problems later occur that could have been prevented had one been in place.

The *Real Estate Act* Rules specifically address written service agreements in s.43. This section outlines that a written service agreement creates an obligation for licensees to disclose how they will be paid for their services. This is important, especially in large-scale agribusiness transactions. Licensees always need to ensure their role is understood and to disclose to their clients how they will be paid for their services.

Written Service Agreements are there to protect both your own and your client’s interests. There is always the chance for a misunderstanding or a dispute and the ability to refer to the stipulations listed in the written service agreement is invaluable.

Licensees are encouraged to use written service agreements in all agribusiness transactions.

It is always a good idea to question, “why wouldn’t I use a written service agreement?”. When in sincere doubt about whether a service agreement should be used, please contact us to discuss the advantages of using one. In almost every situation, it just doesn’t make sense not to.

For any questions regarding written service agreements or agribusiness transactions, please contact [info@reca.ca](mailto:info@reca.ca).

# INTEREST RATES MUST BE PAID ON SECURITY DEPOSITS

*By Kristian Tzenov, Stakeholder Engagement Manager*



Effective January 1, 2024, [landlords are now required, under the \*Alberta Residential Tenancies Act\*](#) to pay tenants 1.6% interest on security deposits.

This marks the first time in over a decade that interest has been applied on security deposits. The interest rate is derived by a formula that can be found on [alberta.ca](#).

## KEY CONSIDERATIONS

- **Interest Rate:** As stipulated by the Residential Tenancies Act, the interest rate on security deposits is currently 1.6 percent. This rate is subject to change based on updates to provincial regulations or economic factors. On the government website there is an [online interest rate calculator](#) to determine how much interest is required on security deposits.
- **Calculation Method:** Unless otherwise stipulated, interest is calculated annually and applied to the security deposit at the end of each year. To provide full disclosure, property managers are encouraged to indicate the specifics of interest calculation and payment in their lease agreements.
- **Exemptions:** Certain types of rental arrangements or properties may be exempt from the requirement to pay interest on security deposits. Additionally, interest does not have to be paid if both parties agree in writing.

## OUTLOOK

It is always important for property managers to adhere to the provincial regulations in the [Residential Tenancies Act](#), and to maintain open communication with their landlord and tenant clients regarding any new processes. While the re-introduction of interest payments on security deposits may add an additional financial obligation for property managers, it also promotes transparency and accountability within the rental market. Property managers will need to properly reconcile trust account statements to include the interest earned in all subledgers.

If you have any concerns or inquiries regarding security deposits or the interest that needs to be paid, please reach out to [Service Alberta](#).



## RECA MANAGEMENT

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**RUSS MORROW**

Chief Executive Officer

**JANICE HARRINGTON**

Chief Operating Officer

**WARREN MARTINSON**

Registrar

**STACY PAQUIN**

General Counsel & Corporate  
Secretary

## CONTACT RECA

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Phone (403) 228-2954  
Toll-free 1-888-425-2754  
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### GENERAL QUESTIONS

Call or email an Information Officer  
at: [info@reca.ca](mailto:info@reca.ca)

### BROKER ADVICE

Call or email one of our Compliance Advisors:

Mortgage: [gzielgle@reca.ca](mailto:gzielgle@reca.ca)

Real Estate: [ktzenov@reca.ca](mailto:ktzenov@reca.ca)

Condo: [ddixon@reca.ca](mailto:ddixon@reca.ca)

### CONTACT RECA'S BOARD OF DIRECTORS OR INDUSTRY COUNCIL MEMBERS DIRECTLY

Board of Directors: [board@reca.ab.ca](mailto:board@reca.ab.ca)

Mortgage Broker Industry Council:  
[mortgageic@reca.ab.ca](mailto:mortgageic@reca.ab.ca)

Residential Real Estate Broker Industry Council:  
[resic@reca.ab.ca](mailto:resic@reca.ab.ca)

Residential Property Manager Industry Council:  
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Commercial Real Estate Broker and Commercial  
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WATCH [RECA.CA](http://RECA.CA) FOR CURRENT ENGAGEMENT EVENTS, BROKER FORUMS, AND MORE.