

TRADING IN REAL ESTATE – COMMERCIAL REAL ESTATE

Purpose: This bulletin clarifies the type of real estate an individual may trade in when they hold a licence to trade in commercial real estate.

This bulletin applies to all real estate professionals.

As a real estate professional who holds a licence to trade in commercial real estate, you need to understand the type of real estate in which you may trade. Most times this is obvious but sometimes there may be some confusion.

Alberta's licensing model for real estate industry professionals allows new real estate professionals to complete the practice education courses for the areas of real estate in which they plan to work. Real estate professionals may receive a real estate licence that is restricted to specific areas of practice for which they complete the practice education courses, in this case, commercial real estate.

What is commercial real estate?

The *Real Estate Act* Rules define commercial real estate. "Commercial real estate" means real estate used or intended to be used to generate income and includes real estate used for retail, office, industrial, investment, institutional purposes and residential real estate comprising of more than four residential premises.

The definitions for each of the practice areas emphasize the use or intended use of the real estate.

What can I do with licence to trade in commercial real estate?

Commercial real estate professionals hold a licence to assist buyers and sellers, tenants and landlords, of commercial real estate. Typical commercial real estate examples include the purchase, sale, or lease of office buildings or space, industrial sites and retail.

You also need to consider the use or intended use of a piece of real estate. Sometimes a property's current land use isn't its best use and a desire to change the land use may necessitate a different type of real estate practitioner representing a buyer of that property. For example, this could be the case for agricultural land near the boundaries of a major city. If changing the land use from agricultural to residential or industrial is the highest or best use, and is successful through the local municipal authority, then a residential or commercial real estate practitioner, as the

case may be, would be able to represent a buyer of that land. You always need to consider real estate's highest and best use in determining who could assist a buyer or seller.

The other factor in determining if real estate is a commercial transaction is to look at the number of premises as part of a single transaction. If the use of the real estate is for residential purposes but contains more than four premises as part of a single transaction, it is a commercial transaction.

Examples:

These examples are not intended to cover every possible situation or scenario, but will provide real estate professionals with some practical guidelines.

- 1) Side-by-side duplex: a commercial real estate professional cannot assist the buyer or seller of a side-by-side duplex as the property is residential, its use is residential, and it has only two premises.
- 2) 10-unit apartment building: A residential real estate professional would not be authorized to assist the buyer or seller of such a property. The real estate professional requires a licence to trade in commercial real estate. If, however, the best use may be conversion to condominium ownership, after the property converts to condominium units, an individual with a licence to trade in residential real estate could sell individual premises.
- 3) Representing the buyer of a four-plex: An individual with a licence to trade in residential real estate could assist the buyer in the purchase of a four-plex as there are only four premises. Even though the real estate is intended to generate income, a commercial real estate professional could not assist this buyer because it is only four premises.
- 4) A developer wants to hire a real estate professional to sell 75 individual premises in a high-rise condominium building. A residential real estate associate can represent the developer for these sales. The developer is selling one premises at a time. If the developer wanted to sell the building as a whole, he would require the services of a commercial real estate professional.
- 5) A unique development in Calgary contains office/residential condominiums. In each unit, the owner resides, but the land use policy allows the individual to have a home business in the condominium. A residential real estate professional could assist a buyer or seller of this property. Its primary use is residential, even with the addition of office space, and it's a single premises.
- 6) The owner of a small convenience store lives in a residential premises above the store. The owner has decided to sell the entire building, including the store premises and the residential premises.

The intended use of the property is to remain as a commercial enterprise on the first floor with a residential premises on the second floor. A commercial real estate professional can represent the seller in this transaction; a residential real estate professional cannot.

If RECA receives a complaint about a real estate professional acting outside of the scope of their licence, RECA will review their conduct.

You must hold a licence to trade in the practice areas you are trading. If you trade in an area of practice that you do not hold a licence, your actions may be conduct deserving of sanction and be subject to disciplinary action.

RECA would also like to remind real estate professionals that even with a licence to trade in a specific area of practice, they need to ensure they are competent before assisting in any transaction. For example, if you are licensed to trade in all areas of real estate practice, but have never represented a buyer or seller in a commercial real estate transaction, you may not be competent to assist a buyer or seller in a complex commercial transaction. You should refer that buyer or seller to qualified and competent real estate professional. For more information about competence, review the Information Bulletin: Competent Service.

Related Information

Legislation

- *Real Estate Act* Rules – sections 1(1)(g.01)(w)(bb.1) and (bb.2)

Information Bulletins

- Competent Service
- Trading in Real Estate – Property Management
- Trading in Real Estate – Residential Real Estate
- Trading in Real Estate – Rural Real Estate