



THE CANADIAN  
BAR ASSOCIATION  
Alberta Branch

April 21, 2020

Via e-mail [ministersa@gov.ab.ca](mailto:ministersa@gov.ab.ca)

Minister of Service Alberta  
103 Legislature Building  
10800 - 97 Avenue NW  
Edmonton, AB  
Canada T5K 2B6

Attention: The Honourable Nate Glubish

Dear Minister Glubish:

**Re: Recommendations for improvements to RECA**

On February 28, 2020, Mr. Duane Monea, Administrator for the Real Estate Council of Alberta (RECA), met with the Real Property Law (North) section of the Canadian Bar Association – Alberta Branch (“CBA Alberta”) to canvass feedback regarding recommendations for improvements to RECA’s governance and to the process of real estate transactions in the province, advising that your Ministry is seeking input from stakeholders and suggesting that we as lawyer practitioners in the area of real property and real estate would be in a position to make some meaningful contribution.

Our members have been canvassed and we are writing to express recommendations received from some of our group members. Please note that in so doing we are not advocacy in favour of or against RECA, but are provide recommendations which some of our members who practice in this area have put forward, to improve how real estate transactions are done in Alberta as they relate to RECA’s mandate.

**Recommendation #1:** RECA should adopt similar professional oversight and regulation measures comparable to those of the legal profession in Alberta. Adopting education, certification, monitoring, and continuing professional education standards like those mandated by the Law Society of Alberta would serve the interests of the public. Disciplinary procedures and sanctions like those imposed on legal professionals would increase the accountability and compliance with standards of real estate professionals.

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**Recommendation #2:** RECA's board should include a balance of representation from all real estate professions including members from the legal profession as well as appraisal professionals and property managers. There is a need for balance among the various real estate professionals serving on the board – no profession should be given more weight by way of having more board members than the others. Further, in keeping with accountability and transparency, we recommend that at least one member of the public be included in the composition of the board. Selection should be conducted by way of nomination and votes from active members from each profession (except for public members).

**Recommendation #3:** Education of real estate professionals needs to be expanded and improved, especially in areas relating to real property reports, compliance issues, dower issues, and estate issues. Continuing education should be mandatory with yearly requirements, including professional responsibility (ethics).

**Recommendation #4:** Increased transparency and outcomes relating to complaints against real estate professionals is necessary. Members of the public should be added to disciplinary committees. Disciplinary actions at all stages and outcomes should be posted publicly on RECA's website and notices should be circulated to other members of the profession. Public reprimands, financial penalties and expulsions from the profession should be some of the available sanctions depending on the severity of the misconduct.

**Recommendation #5:** Realtors acting for purchasers should be encouraged to consider adding a condition to purchase contracts, where appropriate and especially where any of the standard contract terms have been edited, that the contract be conditional upon legal review (e.g. "contract is subject to lawyer review as to substance and form"), unless legal assistance has already been obtained.

**Recommendation #6:** RECA should be mandating tighter ethical restrictions for its professionals. Tighter restrictions and expanded clarity are needed in relation to realtors acting in a conflict of interest. There are situations where realtors are not restricted from acting in a conflict of interest, such as a dual agency, which are not in the best interests of the public.

**Recommendation #7:** It should be mandatory for a realtor to obtain and review a real property report along with compliance certificates or compliance disclosure

notices with their clients prior to listing a property. Often realtors are not ensuring that a real property report has been obtained before a property is listed for sale, which is contradictory to the seller's obligations (as per the standard purchase agreement) in the event of a sale. Compliance issues should not be ignored and left for legal professionals to discover and manage. If realtors investigated and identified any compliance concerns earlier in the sale process, the issues will be easier to manage.

**Recommendation #8:** Realtors should be ensuring that buyers have a fully executed a mortgage commitment in place before removing financing conditions on a purchase contract.

**Recommendation #9:** Realtors should be encouraged to obtain legal assistance when departing from standard contract terms, when adding unusual or complex terms, or when dealing with sales involving estate or dower issues. Lawyers can help with negotiating, drafting, or advising upon appropriate contractual terms. Once a purchase contract has been finalized by a realtor and accepted by the parties, a lawyer is stuck with managing any unclear or confusing terms in the purchase contract.

**Recommendation #10:** The responsibility for fulfilling and completing a buyer's financing conditions should not be passed from mortgage brokers to lawyers. Mortgage brokers should be solely responsible for assisting a buyer with fulfilling such conditions (e.g. debt payments).

We support changes to RECA's operations that are in line with the public's interests and trust that our submissions shall be instructive to you with respect to your review.

Sincerely,



Sherry D. Simons  
Chair, CBA Alberta - Real Property Law (North)

cc: Duane Monea ([dmonea@reca.ca](mailto:dmonea@reca.ca))  
Lois Flynn ([lois.flynn@gov.ab.ca](mailto:lois.flynn@gov.ab.ca))