

Public Trust Matters

Responses to the Recommendations
of the Independent Advisory Group

A Submission to the Superintendent of Real Estate,
Minister of Finance and
Real Estate Council of British Columbia

September 2016



BRITISH COLUMBIA
REAL ESTATE
ASSOCIATION

Prepared by the British Columbia Real Estate Association and BC's 11 real estate boards:

- BC Northern Real Estate Board
- Chilliwack and District Real Estate Board
- Fraser Valley Real Estate Board
- Kamloops and District Real Estate Association
- Kootenay Real Estate Board
- Okanagan Mainline Real Estate Board
- Powell River Sunshine Coast Real Estate Board
- Real Estate Board of Greater Vancouver
- South Okanagan Real Estate Board
- Vancouver Island Real Estate Board
- Victoria Real Estate Board

Executive Summary

REALTORS® are professionals, and the vast majority demonstrate that every day by providing their clients with excellent service. Despite this reality, unethical conduct by a few real estate licensees has resulted in the proposal of significant changes to real estate practice.

In support of enhanced consumer protection and real estate licensee professionalism, the British Columbia Real Estate Association (BCREA), real estate boards and REALTORS® all around the province generally support the recommendations of the Independent Advisory Group (IAG).

Starting with a solid and long-standing history of cooperation with the Real Estate Council of BC, we believe a collaborative approach to implementation of the IAG recommendations will help ensure that unintended negative consequences are avoided.

This submission includes feedback on all 28 recommendations. Based on consultations with REALTORS®, we also highlight three areas that have drawn the most concern:

1. Limited dual agency

The proposal to ban the practice of limited dual agency without considering the impact on consumer choice, small communities, commercial practitioners or long-standing professional relationships could result in an increasing number of consumers choosing to act without professional representation, rather than engage the services of licensees. We strongly recommend that limited dual agency still be allowed through express consent.

2. Administrative burden on brokers

Multiple IAG recommendations propose measures that would have a cumulative and significant impact on broker workload, without getting to the heart of the matter. More effective and consistent oversight by managing brokers is a key component of enhanced consumer protection, and we propose a collaborative effort with the Council to undertake a larger examination of brokerage issues to find the best solutions that still support competitive diversity and consumer choice.

3. Council composition

Once the *Real Estate Services Act* amendments take effect, Council members will be appointed, instead of elected. We strongly support transparency, and the appointment of individuals who are thoroughly familiar with the practice of real estate in BC and who have current industry experience and expertise. We also urge that organized real estate be included in the nomination process for licensee candidates.

Change is inevitable. By working together, we can achieve the best result for consumers and licensees.

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Introduction

The British Columbia Real Estate Association (BCREA), real estate boards and REALTORS® all around the province generally support the recommendations of the Independent Advisory Group (IAG).

BCREA and the 11 real estate boards—collectively known as organized real estate (ORE)—continually look for ways to improve our constantly-evolving products and services that support REALTOR® professionalism and, in turn, consumer protection. Our most widely recognized accomplishment is the Multiple Listing Service®. By creating, maintaining and regulating this valuable tool, we have established a trusted real estate marketplace now relied on by the profession, its clients, private industry and governments.

Our focus is on the future, and we look forward to working closely with the Ministry of Finance, the Superintendent and the Real Estate Council of BC (the Council) to implement the IAG recommendations.

Our solid foundation is an excellent starting point. BCREA has a long history of successful collaboration with the Council, including the recent redevelopment of the Residential Trading Services Applied Practice Course, which received an award from the Association of Real Estate License Law Officials in 2015. The Council, BCREA and the real estate boards have also worked closely to harmonize continuing education requirements for relicensing and ongoing board membership.

Another important example of our effective cooperation is the decades-long participation of Council staff on BCREA's Standard Forms Committee, which maintains and refines the forms BC REALTORS® and consumers use for trading in real estate. The committee ensures the forms are concise, current and reflect best professional practices. Council's active participation on the Standard Forms Committee has allowed standard forms to quickly and effectively respond to both the requirements of the Council's Rules and policies, and the practice needs of REALTORS®.

This established relationship remains as important now as it has ever been. By working together, we can ensure that changes to real estate practice are well thought out, made with care and avoid unintended negative consequences, to both consumers and REALTORS®. We have the resources in place to assist with and support the implementation.

This submission contains feedback ORE has received from REALTORS® and brokers across the province, suggestions for successful implementation of the IAG recommendations, as well as actions ORE can take in the spirit of improved REALTOR® professionalism and consumer protection.

We are pleased to provide feedback on all 28 recommendations, and also highlight three areas that have drawn the most concern from REALTORS® and brokers:

1. Limited dual agency: the proposal to ban the practice of limited dual agency without considering the impact on consumer choice, small communities, commercial practitioners or long-standing professional relationships.
2. Administrative burden on brokers: the cumulative and significant impact to broker workload, in the absence of a comprehensive examination of brokerage operations.
3. Council composition: the need for members who are thoroughly familiar with the practice of real estate in BC and who have current industry experience and expertise.

Transparency and Ethics

1. *The Real Estate Council create a comprehensive Code of Ethics and Professional Conduct and require licensees to affirm, in writing, their compliance with the Code as part of regular relicensing requirements.*

We understand the perceived need for a regulatory code of ethics, and the very real need to reduce confusion among members of the public and licensees about complaints and discipline processes.

Real estate boards are obligated to enforce the provisions of the REALTOR® Code (www.crea.ca/buyers-or-sellers/realtor-code), created by the Canadian Real Estate Association, enforced across the country and refined over the course of several decades. The REALTOR® Code establishes a standard of conduct, which in many respects exceeds basic legal requirements. This standard ensures the protection of the rights and interests of consumers of real estate services. As a condition of membership, all REALTORS® agree to abide by the Code.

We urge that the consumer-related elements of the REALTOR® Code form part of BC's regulatory code of ethics. Considering ORE's role in ensuring REALTORS® achieve a standard of practice commensurate with the REALTOR® Code, we also ask to work with the Superintendent and the Council as the regulatory code is developed.

ORE action: As member-based organizations, real estate boards will continue to discipline their own members for infractions of board rules and bylaws. Incorporating many elements of the REALTOR® Code into the regulatory code of ethics will help ensure clear boundaries between the disciplinary actions of the Council and real estate boards.

THE IAG ALSO RECOMMENDS that both pre-licensing education and mandatory continuing education be strengthened with improved content about ethics and a licensee's duties to consumers.

ORE actions: BCREA will work with the Council to include this content in current and future courses, and will create a new ethics course, once the new Code of Ethics and Professional Conduct is in place.

In the meantime, ORE is urging REALTORS® to take existing courses related to regulatory compliance. The following courses are already available online and have been developed by ORE in collaboration with regulatory authorities:

- FINTRAC: Compliance for REALTORS®, Brokers and Broker Managers
- Canada's Anti-Spam Legislation: Guidance for REALTORS®
- Competition Law for REALTORS®

2. *The Real Estate Council amend its Rules to no longer permit licensees engaged in trading services to offer dual agency.*

We are concerned that a ban on limited dual agency will limit consumer choices and create more situations where consumers enter into "no agency" relationships with licensees, or they

simply act on their own behalf without any professional guidance. These types of unintended consequences will not further consumer protection.

We have heard several concerns about an outright ban on limited dual agency, from many REALTORS® all over the province. Often, limited dual agency is a consumer-driven decision. In small communities, where few REALTORS® practice and brokerages tend to be small, it is fairly common for buyers to work with listing agents. A consumer may not want to work with other REALTORS® in the area, or there may not be another licensee in the area. Their choice is to go it alone or try and find some sort of support from outside of the area, thus giving up the advantage of local or specialty knowledge. In these situations, having some agency from a listing agent may be better than no agency.

But small communities represent only one problem area on this issue. A real estate career is all about relationships. REALTORS® build trust with their clients, get to know their needs and then often meet those needs repeatedly over several years, even decades. A REALTOR® who has a listing they know will appeal to a current or previous client will reach out, and we firmly believe that any changes implemented should support the right of a consumer to work with the REALTOR® of their choice.

Another challenge will be the impact on buyer agency. Currently, many licensees work with multiple buyers at the same time. Often, these buyers can be looking for the same types of property, thus creating a potential conflict of interest. Banning limited dual agency would result in buyers being forced to find new REALTORS®, despite the time and effort invested in building that relationship, or being forced into no agency relationships.

ORE supports improved consumer protection and, to that end, we implemented designated agency (web.bcrea.bc.ca/da) in 2012, with the goals of reducing agency issues and providing clarity around agency relationships between consumers and REALTORS®. In designated agency, the brokerage has contractual duties to the buyer or seller who has engaged it, and agency duties are provided by the licensee appointed by the brokerage as the designated agent for that client.

Although the IAG report focuses on residential real estate, a ban on limited dual agency would also impact commercial practitioners. A licensee representing the owner of a building often negotiates leases with tenants, representing both parties. A ban on limited dual agency could leave tenants without representation.

ORE strongly recommends that limited dual agency still be allowed. We recommend creation of an express consent mechanism to allow for such situations, in which an “except where expressly consented to” clause is included in the contract. We would also be happy to work with Council on any additional disclosure requirements that are felt necessary. We also seek confirmation that the ban on limited dual agency is proposed at the licensee level, and that designated agency will still be allowed.

3. *The Real Estate Council require licensees to fully disclose and explain their financial and non-financial incentive structures, prior to and on entering into a client relationship.*

Licensees already have an obligation to disclose, in writing, the remuneration they receive (or anticipate receiving) to their clients and have had to do so for many years. Depending on the level of information disclosed, there may be unintended consequences of commercial reality. For example, it may require brokerages to reveal proprietary information and be unduly intrusive into a brokerage's competitive structure. We ask for clarity as to what constitutes "financial and non-financial incentive structures."

ORE actions: BCREA will emphasize disclosure requirements in the *Real Estate Errors and Omissions Legal Update* course, which is the mandatory course for relicensing. The Association will also create a form to disclose double ending, and look for opportunities to help REALTORS® improve their communication about disclosures.

4. *The Real Estate Council require licensees to provide information to consumers which clearly explains the duties owed to consumers by licensees, and how consumers can protect their own interests, before, during, and after they enter a relationship with a licensee.*

THE IAG RECOMMENDS that Real Estate Council take ownership for producing the information provided to consumers before they engage a licensee, and prescribe the requirements for all licensees to make this information available to consumers.

ORE actions: BCREA has recently redrafted the *Working With a REALTOR®* brochure into plain language to make it easier for consumers to understand. The Association will provide that document to the Council as a starting point for its own material. Currently, the brochure is also used as a way for REALTORS® to obtain privacy consent, so ORE will need to ensure that a tool remains in place to do so. BCREA will also create a new form for the disclosure of "no agency" situations.

THE IAG ALSO RECOMMENDS that the Real Estate Council require licensees to provide additional and ongoing information throughout a transaction and whenever there are changes in the relationship, so the consumer clearly understands the impact on them and their decisions.

We believe that requirements are already in place, and that there is merit in a program to remind licensees of them.

ORE actions: ORE will reinforce best practices with REALTORS®, through education and communications.

THE IAG RECOMMENDS that the Real Estate Council develop complementary guidance and education for licensees to ensure any documentation provided to consumers is fully explained and understood.

ORE action: BCREA proposes using reserve funds from the Applied Practice Courses to translate guides for standard forms into the five most common non-English languages.

5. *The Real Estate Council focus more attention on the forms and contracts used by licensees, to ensure they reflect an appropriate emphasis on consumer protection and the public interest.*

ORE action: BCREA invites the Real Estate Council to expand its participation on the Association's Standard Forms Committee, and looks forward to continuing to work with the Council and the Superintendent on the development and maintenance of standard forms.

THE IAG RECOMMENDS that the Real Estate Council closely monitor consumer protection issues that may arise from the standard form contract of purchase and sale including the recent changes prescribed by Government.

ORE actions: The real estate boards and BCREA will provide the Council with an annual report on trends reported by REALTORS®. We also propose the creation of a monitoring group consisting of members from Council and ORE to analyze the results of those trends.

6. *Government implement the changes it made to contracts used by licensees, requiring seller consent to contract assignments by the buyer, to all forms of contract for trades in real estate whether or not the contracts are prepared by licensees.*

We strongly support this recommendation, and are disappointed that steps to implement it have not yet been taken.

7. *The Real Estate Council require all licensee disclosures of interests in trade be reviewed and approved by a licensee's managing broker and subsequently filed at regular intervals with the Real Estate Council.*

Today, managing brokers must review and approve interests in trade. We support the recommendation to require such disclosure in advance of consumer presentations.

THE IAG ALSO RECOMMENDS that the Real Estate Council review the disclosure of interest in trade form to ensure it captures all potential interests and that its contents are clear and easy for consumers to understand.

We agree that more effective and consistent oversight by managing brokers is a key component of enhanced consumer protection. However, significantly increased broker workloads and requirements must be balanced with practicality, or smaller brokerages may not be able to survive. This may result in the further unintended consequence of increased brokerage consolidation, which would reduce consumer choice and marketplace competition.

Rather than impose a collection of piecemeal solutions, ORE proposes a collaborative effort with the Council to undertake a larger examination of brokerage issues to find the best solutions that still support competitive diversity and consumer choice.

ORE action: Real estate boards are holding consultation meetings with brokers this summer to gather their input on the IAG recommendations, and also to create a network for future consultations.

8. The Real Estate Council amend its Rules to prohibit a licensee from acquiring a direct or indirect interest in their own listing.

We believe this is addressed by the real-world deterrent that errors and omissions insurance is not available to licensees in these circumstances, illustrating a significant risk. In addition, licensees are required to disclose their interests in trades, and article 11 of the REALTOR® Code provides further guidance for disclosure. We seek clarity that a licensee who wants to acquire a direct or indirect interest in their listing will have the option to give up that listing and still have the ability to pursue that interest.

ORE recommends, and has always recommended, full disclosure through a form. We further recommend that licensees be required, via their brokerage or managing broker, to report all such deals directly to the Council, with all associated paperwork.

9. The Real Estate Council require that all offers received by a seller's agent in relation to a trade in real estate, be promptly filed with that agent's managing broker and be retained at the brokerage for review by the Real Estate Council on demand.

We have heard considerable support from REALTORS® for putting more structure around multiple offer situations. However, we recommend adopting the approach taken in Ontario, where a simple one-page form is retained, rather than all documentation related to each offer. In addition, the one-page form should only have to be retained for a prescribed period of time (e.g. one year).

This is also one of the recommendations we reference in our remarks under recommendation 7, and an area we believe should be included as part of a comprehensive examination of brokerage issues.

Longer term, THE IAG RECOMMENDS that the Real Estate Council implement a real-time multiple offer registry where buyers can monitor, with appropriate privacy protections, all offers that are made on the property.

Such a registry would be challenging to implement, given the real-time constraints of working with buyers who may decide to submit offers at the last minute. These timelines can be very tight, and introducing the requirement to ensure data is entered into a registry could frustrate what is often a very fluid process. Furthermore, any solution needs to protect consumer privacy and support the competitive nature of the real estate environment. ORE looks forward to working with the Council on a more practical approach to improve transparency.

There may be also instances in which the seller does not want multiple offers disclosed. In those cases, there should be some mechanism in place for sellers to opt out, with a form kept at the brokerage and made available to the Council on demand.

Compliance and Consequences

10. *The Real Estate Council apply more stringent suitability assessment criteria to prospective licensees.*

ORE strongly supports this recommendation.

11. *The Real Estate Council impose an explicit duty on managing brokers to report licensee misconduct to the Council, and explicit duty on licensees to report misconduct to their managing broker, when that misconduct places the public at risk.*

THE IAG RECOMMENDS that managing brokers be required to file an annual report with the Real Estate Council that includes information on the number of files involving actual or potential misconduct that were handled and how they were resolved.

Clarity and transparency will be extremely important in implementing this recommendation, so that managing brokers understand the scope of what needs to be reported and why. Defining what constitutes misconduct will be crucial. We firmly believe that only actual misconduct—rather than potential misconduct—should be reported, and that any requirements put in place do not interfere with the trust that is necessary between licensees and managing brokers. Putting an increased obligation on brokers to self-report potential wrong-doing by their licensees will have the unintended consequence of their licensees being reluctant to ask for help or assistance.

We question the need for both ongoing and annual reporting. If both are needed, then we urge that Council ensure that adequate resources are in place to efficiently and effectively audit the submissions in a timely manner.

This is also one of the recommendations we reference in our remarks under recommendation 7, and an area we believe should be included as part of a comprehensive examination of brokerage issues.

THE IAG RECOMMENDS that the Real Estate Council enter into formal information sharing agreements with the Boards who currently do not share information regarding public complaints and discipline actions with the regulator.

ORE looks forward to learning more about the information needed by the Council to fulfill this recommendation, and the opportunity to enter into reciprocal agreements that comply with privacy legislation. Unless required by legislation, privacy legislation does not currently allow real estate boards to disclose information regarding disciplinary actions.

THE IAG RECOMMENDS that Real Estate Council make clear that non-compliance with the requirement to report misconduct to Council constitutes professional misconduct that may be sanctioned.

ORE supports this recommendation, and we repeat the importance of defining what constitutes misconduct and our belief that only actual misconduct should be reported, rather than potential misconduct.

12. *The Real Estate Council implement confidential reporting channels (for example, reporting hotlines or whistle-blower programs) for industry and the public, to facilitate reporting of licensee misconduct.*

ORE supports this recommendation, which BCREA made in its submission to the IAG. Any whistleblower program should be created with care to ensure that frivolous or unfounded complaints do not damage the reputation of their subjects and those accused of misconduct have ample opportunity to defend their actions in a timely manner. Care must be taken when investigating potentially frivolous complaints to ensure that a licensee's reputation is not unfairly compromised.

13. *The Real Estate Council use existing regulatory powers to encourage licensee compliance with all rules that govern their conduct, including those of other legal and regulatory regimes.*

THE IAG ALSO RECOMMENDS that Government amend the Act to permit the Real Estate Council to disclose information to other regulatory and law enforcement authorities, in compliance with the Freedom of Information and Protection of Privacy Act.

ORE action: We have always worked with regulatory agencies and the Canadian Real Estate Association to encourage REALTORS® to comply with all legal and regulatory requirements, and we look forward to continuing that collaboration in the future.

14. *The Real Estate Council increase its proactive detection and deterrence efforts for licensees who engage in, aid, or abet aggressive marketing and sales practices that target vulnerable members of the public.*

ORE takes aggressive and predatory sales practices very seriously, and we look forward to aligning our efforts with Council. Important to these efforts is the need to preserve the right to a fair hearing. We propose collaboration among the Council and the real estate boards to create a definitive, consistent advertising standard for all licensees.

15. *The Real Estate Council increase the focus on licensee conduct examinations in its brokerage auditing program.*

This is one of the recommendations we reference in our remarks under recommendation 7, and an area we believe should be included as part of a comprehensive examination of brokerage issues.

16. *Government increase maximum disciplinary penalties available to the Real Estate Council to \$250,000 for individual licensee misconduct and \$500,000 for brokerage misconduct, and increase administrative penalties to a maximum of \$50,000.*

THE IAG RECOMMENDS Government give the Real Estate Council the power to designate particular regulatory contraventions for administrative sanction.

THE IAG RECOMMENDS that the Real Estate Council publish guidelines on how sanctions will be determined, including administrative sanctions and disciplinary sanctions.

We support increased fines, and urge that fines levied are appropriate to the offences, to ensure fairness and to avoid being overturned on appeal, thereby undermining the disciplinary system. Fines should follow the principles of administrative law and precedents to avoid overwhelming the Council's resources with appeals. The maximum fine, which could bankrupt a brokerage, should only be levied in extreme situations.

17. Government amend the Act to enable the Real Estate Council to disgorge the proceeds of misconduct from licensees and brokerages.

THE IAG RECOMMENDS that, longer term, the Real Estate Council review ways to return disgorged proceeds to compensate the victims of misconduct.

We support this recommendation.

18. The Real Estate Council improve the transparency of its complaints and disciplinary process, and the resulting outcomes.

We strongly recommend that the Council be given adequate resources to ensure thorough and timely investigations and hearings.

Governance and Structure

19. Government amend the Act to require that 50% of Council members be non-industry members.

THE IAG ALSO RECOMMENDS the Government amend the Act to increase non-industry participation in Council's disciplinary committees.

THE IAG FURTHER RECOMMENDS that the process for selecting non-industry representatives be more transparent and follow established good governance principles including the use of competency based skills and experience assessments.

We understand, from the amendment to the *Real Estate Services Act (RESA)*, that Council members will be appointed. Therefore, ORE strongly supports transparency in appointments, the application of established good governance principles (including an understanding of administrative law) and competency-based skills and experience assessments. We strongly recommend that Council include members who are thoroughly familiar with the practice of real estate in BC and who have current industry experience and expertise. We also urge that ORE be included in the nomination process for licensee candidates.

20. Government amend the Act to make the regulation of both licensed and unlicensed real estate services the responsibility of a single regulator, the Real Estate Council.

THE IAG RECOMMENDS that "for sale by owner" activity, conducted at high volumes or for business purposes, be subject to licensing under the Act. For clarity, the IAG is not recommending that individual owner-occupiers selling their own property be subject to licensing.

ORE supports this recommendation, and (from a consumer perspective) was disappointed that the RESA amendments, which received Royal Assent in July, did not address this.

21. Government increase the Superintendent of Real Estate's oversight of the Real Estate Council including periodic independent assessments of Council's performance against its mandate.

THE IAG RECOMMENDS enhancements to legislation in respect of the Superintendent's powers and relationship to the Council, including:

- *providing the Superintendent with the power to require Council to investigate a particular matter;*
- *requiring Council to implement a committee to review file closure decisions without disciplinary action, and reports these to the Superintendent;*
- *requiring Council to include more information to be part of the record of consent order proceedings, including investigation reports, that can inform decisions and exercise of appeal rights by the Superintendent; and*
- *requiring Council to provide periodic and on-demand reports to the Superintendent regarding emerging risks to consumers, responses to those risks, complaints data, examinations data and enforcement data.*

THE IAG ALSO RECOMMENDS the Superintendent be empowered to require periodic independent assessments of Real Estate Council's effectiveness in the exercise of its mandate. The terms of reference of those assessments should be determined by the Superintendent as he or she sees fit, and carried out by resources independent of the Real Estate Council. The resulting reports from these assessments should be made available to the public.

THE IAG FURTHER RECOMMENDS that the first such assessment take place in a year to eighteen months and be used as a progress report against the recommendations of the IAG.

We see that the RESA amendments provide for all of these recommendations, and we support them. Accountability is an important element of any regulatory regime, and we trust that meaningful measurements will be part of the criteria used to assess the performance of the Council.

22. The Real Estate Council strengthen the requirements for managing brokers to have active and direct oversight over licensees.

THE IAG RECOMMENDS the Real Estate Council identify and implement ways to improve managing broker supervisory effectiveness, including a maximum ratio of licensees per supervising managing broker.

THE IAG RECOMMENDS that Government provide the Real Estate Council with authority to establish a custodianship of the brokerage for a limited time, to facilitate the orderly winding down or transfer of a business where the managing broker is not able to discharge their responsibilities.

THE IAG ALSO RECOMMENDS that the Council undertake a thorough review of new business models to ensure appropriate governance and oversight of licensees and public protection. Extra regulatory vigilance is important in circumstances where new business models may not fit within a regulatory framework designed for more traditional models. New business models may necessitate the

imposition of additional duties and responsibilities on owners, managing brokers, and potentially licensees.

This is one of the recommendations we reference in our remarks under recommendation 7, and an area we believe should be included as part of a comprehensive examination of brokerage issues.

Most licensees, we believe, are independent contractors. Some licensees also operate under Personal Real Estate Corporations (PREC). It is important that any review of brokerage business models considers the role of federally regulated independent contractor status, including PREC structures.

23. Government implement a “fit and proper” standard for brokerage ownership.

This is one of the recommendations we reference in our remarks under recommendation 7, and an area we believe should be included as part of a comprehensive examination of brokerage issues. We support recommendations that improve brokerage management within the context of their service models, and the services they provide to their clients.

24. The Real Estate Council require record keeping and reporting that would assist it to identify industry practices that may be placing consumers at risk.

THE IAG ALSO RECOMMENDS that the Real Estate Council impose a requirement on licensees and brokerages that all contract assignments during a closing period, in which a licensee participates as agent or acquires an interest, must be received, reviewed, and filed by the licensee’s managing broker.

THE IAG RECOMMENDS that all records be kept in a manner that makes them immediately available to regulator when requested, and that failure to retain the above records constitutes a disciplinary offence.

In general, we support this recommendation, but are concerned with the ever-increasing regulatory burden on brokers. This is one of the recommendations we reference in our remarks under recommendation 7, and an area we believe should be included as part of a comprehensive examination of brokerage issues.

Licensee and Public Education

25. The Real Estate Council undertake a comprehensive review of licensing education and testing requirements to raise entry standards.

ORE and REALTORS® have favoured higher entry standards for many years, so we strongly support this recommendation. Despite solid support, we are concerned that the federal Trade, Investment and Labour Mobility Agreement will restrict BC’s ability to demand very high standards.

26. *The Real Estate Council implement mandatory continuing education with content and testing that reinforces a licensee's ethical obligations, conduct requirements, and duties to consumers.*

THE IAG FURTHER RECOMMENDS that licensees be subject to a competency based assessment that fully tests their understanding of, and ability to apply, the content of the update.

We support better education and testing, and we welcome discussions with the Council and Superintendent to identify the objectives for this recommendation, to ensure its effectiveness. We are concerned, however, that this will require the Council to requalify BC's 22,000+ licensees every two years (consistent with licensing cycles). We are not aware of any other regulated profession where every licensee is required to re-qualify every two years.

Language proficiency is a critical risk-management issue that cannot be ignored. In the Greater Vancouver region, it appears that some licensees do not speak fluent English, despite successfully completing the real estate licensing process. If they cannot make themselves understood, a licensee may, in some situations, be unable to explain to a client what standard form contract clauses mean or represent their client's interests effectively in a transaction.

Our members tell us that some of their colleagues' ability to write clear contracts is deficient. Council may want to consider spot-audits of random members' contracts when Council audits brokerages.

ORE actions: BCREA plans to enhance testing in the *Real Estate Errors and Omissions Legal Update* course, which is the mandatory course for relicensing. A wide variety of courses is available to REALTORS®, and some online offerings already include testing. ORE is also open to making adjustments to the Professional Development Program, which is continuing education required to maintain membership in ORE.

27. *The Real Estate Council make its complaints process more publicly accessible and easier to navigate.*

This is another recommendation that has broad support from ORE.

ORE actions: BCREA has already proposed a collaboration with the Council to create an online portal to make the complaints process easier and more publicly accessible.

28. *The Real Estate Council significantly increase and improve its public education and awareness efforts.*

Any and all efforts to help consumers make informed decisions about the professionals with whom they work is welcomed by ORE.

Conclusion

Thank you for considering ORE's response to the upcoming changes to real estate practice and the regulatory regime for licensees. We recognize that this is a critical time for our members, and we look forward to all opportunities to collaborate on the implementation of the changes.

Please contact BCREA Chief Executive Officer Robert Laing directly if you have any questions or to initiate action on any of our recommendations. Robert can be reached at rlaing@bcrea.bc.ca or 604.742.2787.

About BCREA

The British Columbia Real Estate Association (BCREA) is the professional association for more than 20,000 REALTORS® in BC, focusing on provincial issues that impact real estate. Working with the province's 11 real estate boards, BCREA provides continuing professional education, advocacy, economic research and standard forms to help REALTORS® provide value for their clients.

To demonstrate the profession's commitment to improving Quality of Life in BC communities, BCREA supports policies that encourage economic vitality, provide housing opportunities, respect the environment and build communities with good schools and safe neighbourhoods.

BCREA member real estate boards:

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