



Community Charter Strategy



Community Charter Business Coalition Chair Jerry Lampert

Government introduced a record 80 pieces of legislation during the spring session, but the business community's concern and attention are focused on further development of one statute in particular – the *Community Charter Act*.

The Charter seeks to strike a partnership between municipalities and the province, where municipal councils look after community governance and the province addresses the public interest of the province as a whole. The Charter gives municipalities power and resources to make local decisions.

“The Community Charter is important because it gives municipalities more power over a range of matters that directly affect business,” explains BCREA President David Herman. “Government still has to address some very important issues, which is causing serious concern.”

BC's business community, including the real estate profession, is concerned with three aspects of the legislation.

First, the legislation is very broad. It offers municipalities the power to introduce new regulations, requirements and prohibit the public or business in many activities. For example, a council's powers to intervene on behalf of neighbours who complain about a business's operation could lead to a “zero tolerance” policy, thereby restricting the ability of a business to operate.

This power extends to general land use, where a council could introduce requirements to deal with nuisances, trees and commercial signage. For example, a council's power to impose tree requirements could impact land use and development options throughout a broad geographic area.

Second, the legislation provides more municipal con-

trol over revenue sources and taxation. The concern of the business community is how much control will be vested with municipalities. Possible changes to the marginal tax rate and unchecked introduction of road tolls, parking stall taxes and sewage charges are prominent concerns. Levies on business, including independent contractors, might also be possible.

Third, the Charter offers no general remedies or “check and balance” mechanisms on municipalities given the expanded powers. The business community questions what protections, if any, citizens and businesses have from the exercise of local government powers. Does a citizen have any rights other than going to the ballot box every three years? Without general remedies included in the legislation, achieving balance is unlikely.

The provincial government suggests that details related to these aspects of the legislation will be addressed through a series of upcoming phases. Therefore the Community Charter Business Coalition (CCBC), a 26-member group representing private sector industries, keeps a flexible strategy in place for dealing with government.

The phase dealing with municipal taxation powers is expected to get underway

this fall with release of a discussion paper and a legislative amendment. The CCBC, which includes BCREA, will focus on these once they are released.

“We don't know what time frame we're looking at with this,” remarks Jerry Lampert, the coalition's co-chair. “A number of factors like a cabinet or bureaucratic shuffle could change the timing.” As for the land use phase, “it may not come up until after the provincial election in 2005,” he adds.

More information:

- www.mcaws.gov.bc.ca/charter
- www.gov.bc.ca/bcgov/popt/new_era/municipalities.htm
- BCREA's REALTOR Link™ homepage under Library and Community Charter

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BOARD OF DIRECTORS 2003-04

OFFICERS

President David Herman
604.583.2000
davidherman@remax.net

Vice President Gordon Maroney
604.590.4888
gmaroney@dccnet.com

Past President Dennis Wilson
604.590.4888
dennis@denniswilson.net

Executive Officer Robert Laing
604.742.2787
rlaing@bcrea.bc.ca

REGIONAL DIRECTORS

REGION I

Dave Barclay
250.847.5999
ds@bulkley.net

REGION II

Carolyn Boles
250.374.1461
carolynboles@royalpage.ca
Scott Veitch
250.428.9331
scott@c21creston.com

REGION III

Gary McInnis
250.384.8124
gary@garymcinnis.com
John Tillie
800.976.5566
john@johnillie.com

REGION IV

Stephanie Corcoran
604.263.2823
scorcora@rebgv.bc.ca
Georges Pahud
604.437.9431
georges@georgespahud.com
Don Pearce
604.467.5131
don@donpearce.com

REGION V

Patti Flostrand
604.535.5553
patflost@dowco.com
Kelly Lerigny
604.792.7175
kellylerigny@cadreb.com

President's Report



President David Herman

Privacy – Annoyance or Good Customer Service?

How many e-mail messages have you gotten from companies promising to enlarge certain body parts? Been asked to help Prince Matumbo in Africa? Need credit? . . . no shortage of pre-approved credit cards in the letterbox. How did these people get my name?

If you like this sort of thing, enjoy it while you can. Privacy legislation will be

implemented by January 1, 2004, and it may have an impact. At the very least, as consumers we will be more aware of how companies use our personal information. As professionals, we need to make sure our customers understand why we collect their personal information and get their consent for specific uses. It's going to be the law, and it's definitely good customer service.

Many REALTORS, offices and boards already have good practices in place, so we probably won't have to completely change the way we work. However, the provincial bill was only introduced this spring and has not yet been passed, though it will be substantially similar to the federal *Personal Information Protection and Electronic Documents Act* (PIPEDA), which is based on the same ten principles contained in CREA's Privacy Code.

As private citizens, we cher-

ish our right to privacy. As REALTORS, we can never forget that our clients deserve the same. How do we balance our need to prospect for business while respecting privacy? Stay tuned.

BCREA, the Real Estate Board of Greater Vancouver and the Fraser Valley Real Estate Board are building on CREA's Privacy Tool Kit to create simple checklists and other information to help BC REALTORS, brokers and boards prepare. These tools will be available after the provincial legislation takes a more solid form.

To get a head start, visit [CREA's REALTOR Link™ homepage](#) under [Legal Services](#) and [BCREA's REALTOR Link™ homepage](#) under [Library](#).

David Herman
President

What Do You Need?

BCREA is considering making some changes to its newsletters. We know you get piles of paper and dozens of e-mail messages every day, so we want to make sure the information you get from us is timely, interesting and, most importantly, what you want.

We're considering publishing the *Bulletin* and *Legally Speaking* every two months, instead of every month. We're also thinking of combining them into one eight-

page publication – the first six pages would be the *Bulletin*; the last two would be a detachable *Legally Speaking* that you could easily remove.

You may have already noticed some changes in the *Bulletin*. BCREA has adopted a journalistic approach, which means you get research-based articles that present the issues first, and then offer provincial and national perspectives, including expert opinions. The articles fall into several categories, including: professional trends, economic indicators,

public policy, education and practical points.

We believe these changes will result in some cost savings for BCREA and the member boards, and better serve your needs by giving you valuable information you can share with your customers. But it's what you think that counts.

Please drop us a line at bcrea@bcrea.bc.ca or call Director of Communications Norma Miller at 604-742-2789. Anything goes.

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Send questions and comments about *The Bulletin* to:
Editor: Norma Miller
Assistants: Kim Mason, Steve Olmstead

600 – 2695 Granville Street
Vancouver, BC V6H 3H4
Phone: 604.683.7702
Fax: 604.648.9788
E-mail: bcrea@bcrea.bc.ca
www.bcrea.bc.ca

Recreational Properties are Hot



Whether it's baby boomers planning for retirement, investors looking for rental income or out-of-towners searching for a vacation destination, recreational properties are increasingly popular and, according to a recent report, more valuable.

The 2003 *Re/Max Recreational Property Report* data shows six of

the nine markets surveyed in BC saw recreational property starting prices appreciate since 2002 and predicts that, in markets like Kelowna, prices will rise further this year due to tight inventory and strong demand.

The Kelowna area is fast becoming one of the province's "in" destinations. Vancouver-based resort

developer and operator Intrawest Corp. launched its first Okanagan project in June, the beachfront Mission Shores, set for completion next year. Austrian developers are also planning to build a \$40 million, 150-room resort and wellness centre south of Vernon that could attract 150,000 guests per year. If approved by city council, it will open in 2005.

"In the last six months especially, we're seeing people from Australia, the UK and the US drawn here by the relatively low prices and quality of the lifestyle," says Okanagan Mainline Real Estate Board President and Vernon-area REALTOR Joe Pearson. "Prices are starting to escalate quite a bit."

Pearson says buyers are motivated by many factors. "I'm working with one client who's selling a property in Whistler, capitalizing on the equity gain there to buy something cheaper here that will appreciate. But there are also baby boomers taking equity out of their homes in the city to buy a place where they can retire."

The Re/Max report also found that baby boomers continue to be the driving force in the market, willing to pay more to secure their piece of the quiet life.

With mortgage rates so low, more people can afford to realize the dream of the home-away-from-home near one of BC's lakes, rivers, mountains or resorts.

How Competitive Are You?



The June *Bulletin* discussed issues surrounding the federal *Competition Act*, the Competition Bureau, and the tools CREA created to help all levels of organized real estate comply. Here are some things you should beware of in your everyday practice and some of the penalties of non-compliance.

The Act contains both civil remedies and criminal offences. The civil provisions address issues like abuse of dominant position, exclusive dealing and tied selling. Civil cases are adjudicated before the Competition Tribunal. The Act also allows any person who has suffered losses as a result of a criminal offence to sue for damages in the regular courts.

The criminal provisions of the Act deal with matters like price-fixing, predatory pricing, price maintenance and agreements between competitors that unduly limit competition. There are severe penalties for a breach of the law: the maximum fine is \$10 million or five years in prison, or both.

There are two types of criminal offences: a "per se" offence, where the government does not have to prove that the practice reduced competition – the mere act gives rise to an offence, such as with price maintenance, and cases where an illegal act occurs only when the practice would substantially lessen competition or was intended to do so, such as predatory pricing and agreements between competitors.

Penalties aside, complying with the Act makes good business sense and maintains your customers' trust.

Remember, an agreement or understanding does not have to be written, and offences may include anti-competitive

activity oral or written, expressed or implied.

Do not...

- collude with other REALTORS to fix commission rates or splits
- boycott certain REALTORS or advertising media
- discriminate against a licensee who is not a board member or who has a low-commission policy
- encourage another REALTOR to raise commissions rates or discourage anyone from lowering them by means of an agreement, threat or inducement

Ethics Top Priority for REALTORS



In conducting the 2003 Membership Survey, which included more than 11,000 respondents from across Canada, CREA found REALTORS rate the promotion of ethics as the most important of its major service areas, above lobbying, legal services and improving the image of REALTORS.

BCREA's cpe seminar *Business Ethics – Practices and Procedures* is essential for anyone involved in handling business practice complaints.



"It's scary to me that the people involved in investigating and carrying out business practices hearings often don't have basic training," says seminar leader, CREA Code of Ethics Task Force member and BCREA Past President Dennis Wilson. "These people are in a position of trust and make decisions that affect people's livelihoods and families. This seminar will help those involved do the best possible job."

The seminar teaches participants how to effectively deal with complaints and the hearing process. It reviews business practices committee requirements for handling complaints, delves into how procedures vary from board to board and considers some common elements, such as the initial review of the complaint by the committee, the investigation, the hearing procedure and the decision.

Wilson, who presented the seminar for the first time to 41 Region II REALTORS in May, says business practice ethics is one of the most important services boards provide for their members.

"In every survey I've ever seen, REALTORS rate ethics as a top priority," he says. "Boards can respond by making sure that the people on their business practices committees have training."

The one-day workshop allows for a full review of the process and discussions around case studies, while the "hands-on" two-day workshop allows for role playing of investigations and mock hearings to give the participants valuable experience. The seminar is also led by long-time cpe instructor Laurie Creak. Check with your board for availability.

cpe Seminar Schedule

Help position yourself for success – enroll in a cpe seminar today!

Condo 202: Advanced Strata Law for REALTORS

Instructor: Mike Mangan

July 29, REBGV – North Vancouver

July 31, REBGV – Maple Ridge

August 27, REBGV – Vancouver

Condo 101: Strata Law for REALTORS

Instructor: Mike Mangan

August 14, REBGV – Vancouver

Professionalism It Pays! Be Safe or Be Sued

Instructor: Mike Mangan

August 21, REBGV – Vancouver

Check with your local board office for last-minute changes. Look for more cpe seminars on BCREA's REALTOR Link™ homepage, under Education.

New Tribunal for Commercial Appeals

Government has announced plans to replace the province's Commercial Appeals Commission with a new financial services tribunal, under the *Financial Institutions Act*.

According to a government release, the new tribunal will be more focused and reflect the technical nature of the issues faced by the financial and real estate sectors. The Commission averaged only 25 applications a year, with the majority coming from these sectors.

"We were aware of government's intention to eliminate the Commission," explains BCREA President David Herman. "That's why the draft *Real Estate Brokers and Agents Act* we recommended to government provides for both a review on the record

within the Real Estate Council of British Columbia and an appeal mechanism."

The Commission was established in 1996 by the *Commercial Appeals Commission Act*. Its mandate is to serve the public interest by hearing and deciding appeals from individuals affected by the decisions of different branches and bodies of government in relation to 14 provincial statutes, including the *Financial Institutions Act* and *Real Estate Act*.

While the *Commercial Appeals Commission Repeal Act* has passed first reading, government staff would not speculate about when the legislation might pass and the new tribunal established.