



Competition, CREA and Compliance

Competition is a common topic in the real estate profession. REALTORS walk a fine line – on one side competing with others for business, on the other cooperating with agents to make a sale.

The Competition Bureau is responsible for administering and enforcing the federal *Competition Act*, among other legislation. The Act affects all business sectors, including real estate boards, associations, firms, brokers and salespeople. It promotes and maintains fair competition.

The Bureau has raised questions about CREA's three pillars of MLS®, and the market presence and linkage between *mls.ca* and MLS®. Some boards have also voiced concerns about the CLS.CA policy which allows non-MLS® properties to be promoted on the site, and whether that policy has any impact on competition issues. CREA is maintaining an open dialogue with the Bureau on these issues.

CREA created tools to help all

levels of organized real estate promote healthy competition in compliance with the Act, some of which are described below.

CREA's Principles of Competition

All boards across Canada have adopted these principles that strongly prohibit anti-competitive activity and respect the *Competition Act*. They include:

- commission rates and the division of fees are solely the choice of those providing the services;
- MLS® listings must be accepted regardless of price, commission rates or fees;
- advertising is subject to the discretion of the individual and must be honest and lawful;
- business relationships between brokers members, salespeople and non-members are theirs to determine; and
- all members must meet uniform financial and educational standards.

Three Pillars of MLS®

CREA developed the three pillars to maintain the effectiveness of MLS® as a cooperative selling vehicle.

1. A listing contract must provide an offer of remuneration sharing from the listing office to the selling office. The amount of remuneration offered is determined by the listing office, preferably in consultation with the seller. Any attempt to set the amount of remuneration sharing would go against the *Competition Act*.
2. Only members may list property on a real estate database service operated under the MLS® certification marks.
3. A continuing contractual relationship must exist between the listing office and the seller until the completion of the transaction. Arrangements that simply use MLS® services to post listings are unacceptable, because MLS® is a cooperative tool, not just an advertising billboard.

CREA Competition Research and Strategy Task Force

The task force is mandated to research, review and advise the CREA board of directors on issues raised by the Competition Bureau. At their first meeting in May, members approved several motions to increase awareness and promote education on competition issues, including one to update the CREA Competition Awareness video, and one encouraging boards to include awareness material in new member orientation training.

For more information, look on CREA's REALTOR Link™ homepage under Legal Services and visit the Competition Bureau's website at:<http://strategis.ic.gc.ca/SSG/ct01250e.html>.

BC Pledge of Cooperation

In 2000, all 12 member boards signed the Pledge of Cooperation to ensure BC boards cooperate fully, providing a higher level of service to REALTORS and their clients.

The Principles of Cooperation are:

- Access to MLS® data and listed properties within each board's jurisdiction for all REALTOR members.
- Listing privileges that allow REALTORS to list properties on the MLS®

system of the board where the property is located. (Note: This does not allow REALTORS to post FSBO properties.)

- Jurisdictional boundaries that require all MLS® listings of properties located within a board's area be listed on the board's MLS® system.

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LONG-RANGE PLAN PRINCIPLES

- Building membership relations
- Responding to communication needs
- Provincial leadership status as an advocate for the profession
- Excellence in education services
- Enhanced service options for member boards
- Non-dues revenue development
- Equitable fee structure

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President's Report



President David Herman

Unity Gives Us Clout!

BCREA is an instrument of cooperation for our 12 member boards and their 12,000 REALTORS. We drive the economy and help make the dream of home ownership a reality. We must benefit from unity of cause and purpose.

In a recent strategic planning session, the Board of Directors recognized cooperation as an important tool to address several challenges that lie ahead. We all face the same issues, so why not meet them head on with a unified purpose?

For many years, we have achieved economies of scale in several areas. We have buying power, with products such as Navigata and Bell Mobility. Just imagine if there were no provincial leadership on the reform of the *Real Estate Act*, or if the real estate boards did not support that leadership. The project is working because of unity of purpose and cooperation.

Consider continuing education. The final Education Action Team (EAT) Report recently commended BCREA for its high-quality Continuing Professional Education program. However, that success also belongs to the member boards for their enthusiasm to schedule seminars and keep their REALTOR members informed. BCREA looks forward to greater success by fulfilling a key EAT recommendation for increased resource sharing with member boards and related real estate organizations.

That same spirit was the basis for the Pledge of Cooperation. The Pledge was conceived as a REALTOR benefit, a tool allowing professionals to list and sell properties across board boundaries. Cooperation is not foreign to REALTORS. We all use the cooperative Multiple Listing Service® every day, often to check out product in other board areas. Even so, the Pledge is not without its bumps. With a spirit of unity, dialogue and common purpose, the benefits of the Pledge of Cooperation will be realized throughout BC. We are shedding convention and breaking new ground.

What a great foundation to work from. We face competition from other professions, and we are confronted by outside influences and legislative challenges. But we can address these issues if we continue to stand steadfast and united.

David Herman

President



Mighty mls.ca

The one-day record for page views on *mls.ca* is 4.1 million, set May 26, 2003. The monthly record for *mls.ca* page views is 93.4 million, set in January 2003.

Are you using *mls.ca* to its fullest extent?

According to CREA's latest membership survey, conducted in February 2003, most of the 1,141 BC REALTORS who responded named *mls.ca* as their preferred medium to advertise listings. Almost 58 per cent of BC REALTORS said they had made a sale by contact made through *mls.ca* in 2002.

But there are some marketing aspects of *mls.ca* that REALTORS are not

taking advantage of. On the day the page view record was set, 13 per cent of the total listings did not have a photo – the feature users say they want most. More than 10,000 listings did not have an e-mail address for the listing REALTOR.

Take advantage of all that *mls.ca* has to offer – it's your member benefit!

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Licensing Lawyers and Accountants



With a record setting \$19 billion in residential sales and over 80,000 homes sold last year, BC's real estate sector is one of the few bright spots in the provincial economy. This is good news for REALTORS, and it comes as no surprise that other professional groups, particularly lawyers and accountants, want a piece of the action.

Changes proposed by government would require lawyers to be licensed to solicit new listings or show property outside of trades that come up in the practice of law. Government also suggests a new exemption for accountants for real estate trades that occur as part of a business sale arising in the ordinary course of accountancy practice.

In its latest brief to government, *Real Estate Act Reform: Licensing Lawyers and Accountants*, BCREA notes its concerns about other professionals

performing the duties and functions of REALTORS without being licensed under the Act. BCREA recommends government clarify the lawyers' exemption and preserve the status quo of no exemption for accountants.

"The current arrangement is unacceptable," explains BCREA President David Herman. "Allowing unlicensed professionals to work like REALTORS limits the authority of the Real Estate Council, threatens the effectiveness of the *Real Estate Act* and dismisses the professional expertise of REALTORS."

The brief notes that neither lawyers nor accountants are sufficiently trained, regulated or insured to engage in real estate trading. Consumers deserve to know what to expect from the professional who lists and sells their property, and in what capacity that person acts. Broad licensing exemptions would weaken existing protection measures, including disclosure obligations, standard forms of agreement, prescribed commission types and irrefutable insurance coverage.

All responses to government's *Real Estate Act Review Discussion Paper*, including submissions from the Canadian Bar Association and the Law Society of BC, are available on the Ministry of Finance's website at www.fin.gov.bc.ca/PT/fcsp/reaComment.shtml.

New Pot Bill

Federal Justice Minister Martin Cauchon introduced a bill on May 27 that would boost criminal penalties for growers and traffickers of marijuana, while reducing the penalties for possessing small amounts.

The maximum penalties for trafficking and growing more than 50 plants would double, to 14 years in prison, under the new legislation. However, people caught with 15 grams (enough for about 15 to 30 joints) or less of cannabis would be fined and would not receive criminal records.

Among the bill's critics is the Canadian Police Association. Spokesman David Griffin said police do not have the resources to deal with grow houses. Law enforcement statistics show there were more than 50,000 active grow houses in Canada last year.

Last November, CREA rolled out a national awareness campaign to help REALTORS deal with a rising incidence of grow houses in residential real estate. For more information, or to receive a copy of the brochure *Grow Houses: A National Problem*, e-mail info@crea.ca.

Land Title Offices Consolidated

Early in June, BC's Minister of Sustainable Resource Management Stan Hagen announced plans to consolidate the province's three remaining Land Title Offices (LTO). Firm dates for the changes are not yet available, though they are expected to take effect in 2004 or 2005.

The office in New Westminster will see its workload increase as it assumes responsibility for most functions and services currently provided by offices in Kamloops and Victoria. While LTO examiners will continue to work in Kamloops and Victoria, service for over-the-counter requests will be available in New Westminster only.

"I have decided that the planned staffing changes [are] the best way to meet our budget challenges and still have a significant presence in the three communities where the Land Title Offices are presently located," explained the Minister through a written statement.

The LTO registers ownership of land in BC and is responsible for the accuracy and security of title for all privately held land. The office verifies ownership when property is sold and mortgaged, clarifies the owner of a parcel of land and provides copies of survey plans, easements and strata plans.

In a May presentation to the Minister, BCREA voiced the range of comments received from its 12 member boards. The Association noted its concern that the decision on where to consolidate the LTO may be perceived as a political decision rather than one based on a sound business case. BCREA has asked the Minister to acknowledge the concerns raised by the Association and articulate the rationale for his decision.

Hot New cpe Seminars Coming Soon



Selling Tenant-Occupied Properties (STOP)

Tenant-occupied property transactions are complex because of provincial residential tenancy legislation, and because many strata property corporations impose special requirements, rules and regulations on the landlords and tenants who list, sell, buy or occupy these properties. Writers Richard Collins and Evelyn McNulty are developing this seminar to help you understand the implications.

Real Estate Development

Not all developments are single lot subdivisions and strata projects. This seminar by Adrienne Murray will give you a working knowledge of the alternative forms of real estate development, with an emphasis on the problematic areas of life leases, shared interests and cooperatives.

Title Searching for REALTORS

In 2002, the Land Title Office started work on an electronic filing system, which is expected to be implemented in 2004. As a result, *Title Searching for REALTORS*, first published in 1992, is being rewritten by Catherine Greenall and will cover all methods of obtaining title information through BC OnLine – a critical skill that will help you work more efficiently.

Watch for these seminars in late fall or early 2004. BCREA thanks The Real Estate Foundation for funding their development.



Legal Update 2003/2004

Legal Update continues to be one of the most popular seminars offered by BCREA, with a total of 848 REALTORS attending since it was first offered on October 31, 2002. Mike Mangan develops the annual seminar to include the latest court cases and changes in legislation.

BCREA thanks the Real Estate Errors and Omissions Insurance Corporation for providing a grant to develop and deliver *Legal Update*, and to subsidize speakers' fees for other risk management seminars, reducing your tuition charges.

cpe Seminar Schedule

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

| DATE | SEMINAR | INSTRUCTOR | LOCATION |
|---------|---|-----------------------------|-----------------------------------|
| June 19 | Condo 202; Advanced Strata Law for REALTORS | Instructor: Mike Mangan | FVREB – Surrey |
| June 20 | Condo 202; Advanced Strata Law for REALTORS | Instructor: Mike Mangan | VREB – Victoria |
| June 24 | Condo 202; Advanced Strata Law for REALTORS | Instructor: Mike Mangan | VREB – Salt Spring Island |
| June 26 | Condo 202; Advanced Strata Law for REALTORS | Instructor: Mike Mangan | SOREB – Penticton |
| July 4 | Condo 202; Advanced Strata Law for REALTORS | Instructor: Mike Mangan | VIREB – Nanaimo |
| July 10 | Condo 202; Advanced Strata Law for REALTORS | Instructor: Mike Mangan | REBGV – Vancouver |
| July 15 | Condo 202; Advanced Strata Law for REALTORS | Instructor: Mike Mangan | REBGV – Coquitlam |
| July 17 | Condo 202; Advanced Strata Law for REALTORS | Instructor: Mike Mangan | REBGV – Richmond |
| July 29 | Condo 202; Advanced Strata Law for REALTORS | Instructor: Mike Mangan | REBGV – North Vancouver |
| July 31 | Condo 202; Advanced Strata Law for REALTORS | Instructor: Mike Mangan | REBGV – Maple Ridge |
| DATE | SEMINAR | INSTRUCTOR | LOCATION |
| June 20 | Professional Presentation of Offers | Instructor: Richard Collins | KADREA – Kamloops (am session) |
| June 20 | Professional Presentation of Offers | Instructor: Richard Collins | KADREA – Kamloops (pm session) |

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