

For the

RECOrd

FALL 2007

The new *Mortgage Brokerages, Lenders and Administrators Act, 2006* (MBLAA) will come into effect on July 1, 2008.

The MBLAA is aimed at streamlining the rules governing mortgage brokers and agents by setting out the activities subject to regulation. Licensing requirements will be expanded to ensure that any person or entity carrying on the business of dealing or trading in mortgages, administering mortgages or acting as a mortgage lender in Ontario must be licensed with the Financial Services Commission of Ontario (FSCO), unless an exemption applies.

Changes affecting real estate brokers

Real estate brokers no longer deemed to be licensed to trade in mortgages

Under the current *Mortgage Brokers Act*, every person who is registered as a real estate broker under the *Real Estate and Business Brokers Act, 2002* (REBBA 2002) is deemed to be licensed as a mortgage broker.

With the implementation of the MBLAA on July 1, 2008, real estate brokers will no longer be deemed to be licensed as mortgage brokers. Any real estate broker who engages in mortgage brokering activities is required to be licensed as a mortgage broker except if the real estate broker is only doing simple referrals such as receiving a fee for referring a prospective borrower to a prospective mortgage lender.

Partial exemption from education requirements until July 1, 2009

If a real estate broker applies for a mortgage broker's license before July 1, 2009, the MBLAA grants a partial exemption from the prescribed educational and experience requirements.

Please note that this exemption only applies if the real estate broker was registered under REBBA 2002 before July 1, 2008. Individuals who become registered as real estate brokers under REBBA 2002 after July 1, 2008 do not qualify for the partial exemption, if they decide to obtain a mortgage broker's license.

Advance application period

To ensure that individuals meet the licensing requirements by the effective date of the MBLAA, FSCO has arranged a four month advance application period from March 1, 2008 to June 30, 2008. During this period, those who are required to be licensed under the MBLAA can submit their application to FSCO.

For current information and updates on the MBLAA, visit the FSCO website at www.fSCO.gov.on.ca

IN THIS ISSUE

Compliance Matters	2
Avoid delays by submitting complete and accurate applications	3
Amendments to the Proceeds of Crime	4
Regulatory Activity	5
Correction Notice	5
Satisfaction Survey	6
ARELLO Investigator of the Year Award	6

REBBA₂₀₀₂ Compliance Matters

Failure to Disclose a Property Previously Used as a Grow House

The *Real Estate and Business Brokers Act, 2002* and associated regulations (“Act and associated regulations”) set out a number of disclosure requirements for registrants. One of these is the requirement to disclose material facts to clients and customers.

Brokers and salespersons are obligated to disclose any material fact they are aware of, or take reasonable steps to determine material facts, concerning a property or its history that could affect a person’s decision to buy. The fact that a property was used as a marijuana grow house is an example of a material fact.

A Seller Property Information Statement (SPIS) might include the fact that the property had been used as a grow house. An SPIS is a written statement completed by a seller with the intention of providing information to buyers about the real estate that is for sale. Ontario Reg. 580/05 (“The Code of Ethics”) requires that if a seller has chosen to complete an SPIS, a real estate salesperson or broker must disclose the existence of the SPIS to every buyer who expresses interest in the property, unless the seller directs otherwise.



For more information, refer to pages 31, 45 and 65 of the Guide to REBBA 2002 as well as Section 20 and 21 of Ontario Reg. 580/05 (CODE)

A discipline decision made by a RECO discipline panel in June 2007 is a good example of the consequence of non-disclosure of the fact that a property had been previously used as a grow house.

A real estate salesperson who was representing both the buyers and seller in a real estate transaction did not disclose to

the buying clients that the home they were planning to purchase had been a grow house. The salesperson was aware of this material fact because two years earlier, the salesperson helped the sellers purchase the same property. At that time, the Agreement of Purchase and Sale included the following written disclosure:

The Buyer acknowledges that the use of the property and buildings and structures thereon may have been for the growth or manufacture of illegal substances and acknowledges that the seller makes no representations and/or warranties with respect to the state of repair of the premises and the Buyer accepts the property and the building and structures thereon in their present state and in an “as is” condition.

The real estate salesperson did not inform the buyers about the existence of this written disclosure. Before the completion date of the Agreement of Purchase and Sale, the buyers became aware of the fact that the house had been used as a grow house. The buyers brought the matter to the attention of the salesperson, who then claimed to have forgotten to tell them about this material fact.

Shortly thereafter, the buyers obtained a mutual release from the Agreement of Purchase and Sale, including return of their deposit funds.

A complaint was filed with RECO. After a review by RECO’s complaints department, the matter was referred to the Discipline Committee and proceeded to a discipline panel hearing. The discipline panel determined that the salesperson failed to comply with the Code of Ethics and ordered the salesperson to pay a fine of \$15,000.

NOTE: RECO’s discipline and appeals decisions are posted on the “Complaints & Enforcement” section of the website.



Help us serve you better by submitting complete and accurate applications

RECO's registration department receives a large number of registration applications each year. In 2006 - 2007, RECO's registration department processed a total of 38,509 registration related transactions.

Incomplete or inaccurate applications are considered "deficient". Any changes to a deficient application must be submitted in writing by the applicant, which makes correcting or completing a deficient application a time-consuming task for everyone.

To help registrants complete applications efficiently and accurately, the following is a list of common deficiencies:

Continuing Education Related Deficiencies

Declaration of Continuing Education

- When completing a Declaration of Continuing Education, the name of the course provider must be completed. Please do not mistake this for the instructor's name.
- The declaration must be filled out completely each time it is submitted.

Renewals

- In addition to a complete Declaration of Continuing Education, registrants must also attach a copy of the official transcript for the RECO Real Estate Update Course. Transcripts of the RECO Real Estate Update Course can only be obtained from the Ontario Real Estate Association (OREA), not RECO.

New Registrations

- When submitting an application for a new registration, applicants must attach a copy of the official transcript for the Phase 3 course.

First Time Renewals

- Copies of official transcripts from all three articling courses must be attached to first time applications for renewal.

General Bankruptcy

- RECO requires that an applicant disclose his/her bankruptcies regardless of when they were filed and regardless of whether they were previously disclosed to the Office of the Registrar.
- Where an applicant has answered "yes" to being involved in a bankruptcy, a copy of the complete assignment of bankruptcy, list of creditors and discharge papers must be submitted. RECO cannot consider an application involving a bankruptcy when these three items are not included.
- Once these three items have been submitted with an application, they do not have to be resubmitted with future application renewals. However, a disclosure of bankruptcy will still be required. When completing a renewal application, please indicate that the particulars of the bankruptcy have been previously submitted.

Transfers and Terminations

- When submitting an application for a transfer or termination, be sure to include a dated and signed copy of the letter of resignation you wrote to your employer or the letter of termination you received from your employer. This letter must include the "effective date" of the transfer or termination. In order for the application to be processed, the date of the termination or transfer must be consistent with the date on the letter of resignation or termination.

Business & Brokers of Record

- When RECO requires a copy of a signatory card for the real estate trust account, the signatory card must state that the trust account is the "real estate trust account". A signatory card that only states "trust account" cannot be accepted.
- When submitting an application for a business renewal, please be sure to complete the trust account information and share structure details even if there have not been any changes since the previous renewal.

Fees & Payment

- All credit card payment forms must be completed with the full amount to be charged to the card, the cardholder's name and the cardholder's signature. RECO's staff cannot fill in any credit card information on behalf of an applicant, nor can we accept credit card payments by phone.
- If paying by cheque, please be sure to print your RECO registration number on the front of the cheque.

- Please be sure to include the proper payment amount on cheques and credit card payment forms for all new/reinstatement, renewal or transfer/termination applications.

Full instructions are provided on all forms. Please take a few moments to read the instructions prior to completing the forms. Please carefully review completed forms to ensure that it is accurate, complete and includes any necessary supporting documents and fees.

Questions regarding registration applications can be sent to registration@reco.on.ca.

Amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* mean new record keeping requirements for registrants

In June 2007, the federal government approved amendments to regulations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA). The amendments, which come into effect on June 23, 2008, are designed to broaden the scope of record keeping and reporting requirements. This means that real estate salespersons and brokers will have new obligations under the PCMLTFA.

Below is an overview of some of the most significant amendments and how they will impact registrants.

Current Requirements	Requirements as of June 23, 2008
<ul style="list-style-type: none"> • Currently, real estate salespersons and brokers are required to verify client identification, maintain records and report transactions to the Financial Transaction and Reports Analysis Centre of Canada (FINTRAC) when they receive cash transactions of more than ten thousand dollars, unless the amount is received from a financial entity or public body. 	<ul style="list-style-type: none"> • As of June 23, 2008, a receipt of funds record will be required for all transactions regardless of the amount of the funds received (unless the funds are received from a financial entity or public body). • In addition, a client identification record will be required to be completed with respect to every purchase and sale regardless of the existence of a cash deposit. Salespersons and brokers will be required to verify and record the identification of each client involved in a purchase or sale.
<ul style="list-style-type: none"> • The current regulations under the PCMLTFA requires a salesperson or broker having reasonable grounds to suspect a transaction is linked to money laundering or terrorist activities to report that transaction to FINTRAC. 	<ul style="list-style-type: none"> • Under the amendments to the PCMLTFA, real estate salesperson and brokers will be obligated to report an attempted suspicious transaction in addition to completed ones.

In the coming months, RECO will work with FINTRAC to provide more information about the amendments and what the changes mean to registrants. For more information or to view a copy of the amendments, please visit FINTRAC's website at www.fintrac-canafe.gc.ca.

Regulatory Activity

August 2007 to October 2007

Under the *Real Estate and Business Brokers Act, 2002*, the Registrar is required to make certain information available to the public. The information required to be made publicly available includes proposals, convictions, charges and discipline decisions. For detailed information about these matters, or to view RECO's Public Notice policy, please visit the "Complaints and Enforcement" section of the RECO website.

REGISTRAR'S PROPOSALS

The Registrar has the authority to refuse, refuse to renew, revoke, suspend or apply terms and conditions to an application/registration. In such situations, the Registrar prepares a Proposal and notifies the applicant/registrant of that proposal together with reasons for the Registrar taking such action. A registrant who has received a Proposal has 15 days, from the date the Proposal is served, to file a notice of appeal to the Licence Appeal Tribunal (LAT). If no appeal is received by LAT, the Registrar may carry out the Proposal.

Marcus Brekker (*Newmarket, Ontario*)

The Registrar issued a proposal to refuse the registration of Marcus Brekker on January 22, 2007. The proposal was appealed to the Licence Appeal Tribunal on February 13, 2007. By Order released on July 30, 2007, the Licence Appeal Tribunal directed the Registrar to carry out his proposal. The registration of Marcus Brekker was refused on August 1, 2007.

Sunny Ramdass (*Maple, Ontario*)

The Registrar issued a proposal to revoke the registration of Sunny Ramdass on June 25, 2007. The Registrar's proposal was not appealed to the Licence Appeal Tribunal and therefore, in accordance with section 14(1) of the *Real Estate and Business Brokers Act, 2002*, the registration of Sunny Ramdass was revoked on August 1, 2007.

George Szanto (*Etobicoke, Ontario*)

The Registrar issued a proposal to refuse the registration of George Szanto on November 20, 2006. The proposal was appealed to the Licence Appeal Tribunal on December 7, 2006. By Order released on August 10, 2007, the Licence Appeal Tribunal directed the Registrar to carry out his proposal. The registration of George Szanto was refused on August 24, 2007.

Vince Carere (*Vaughan, Ontario*)

The Registrar issued a proposal to revoke the registration of Vince Carere on January 12, 2007. The proposal was appealed to the Licence Appeal Tribunal on February 6, 2007. Vince Carere withdrew his appeal on September 24, 2007. The registration of Vince Carere was revoked on September 25, 2007.

Rahaman Subadar (*Toronto, Ontario*)

The Registrar issued a proposal to revoke the registration of Rahaman Subadar on August 15, 2005. The proposal was appealed to the Licence Appeal Tribunal on August 30, 2005. By Order released on October 4, 2007, the Licence Appeal Tribunal directed the Registrar to carry out his proposal. The registration of Rahaman Subadar was revoked on October 10, 2007.

CONVICTIONS

Yossi Adout, *September 17, 2007*

Yossi Adout was found guilty of one count of trading in real estate as a broker without registration and one count of furnishing false information. He was fined \$2,500 per count, for a total fine of \$5,000.

Correction Notice

For the RECO, Summer 2007

In the Summer 2007 edition of *For the RECO* (Regulatory Activity on page 6), RECO reported that the registrations of Robin Brown (Georgetown, Ontario) and Clayton Ryan (Mississauga, Ontario) were revoked by way of a Registrar's Proposal on March 8, 2007.

RECO should have reported that the registrations of Robin Brown and Clayton Ryan were **refused** by way of a Registrar's Proposal on March 8, 2007.

RECO apologizes for this error.

Participate in RECO's Registrant Satisfaction Survey

RECO will be conducting its second registrant satisfaction survey in November 2007. The survey will help RECO assess its service delivery, identify areas for improvement, and implement changes to ensure that we continue to deliver quality services and information to registrants.

The survey will be conducted online and all registrants will be able to participate. It will be accessible through MyWeb. Registrants who do not have a MyWeb account will be able to sign up and complete the survey. Registrants who already have a MyWeb account will be notified by e-mail when the survey becomes available. A notice will also be posted on the main page of the RECO website. Thank you in advance for your participation.

RECO's Jo Ann Swain receives the ARELLO Investigator of the Year Award

RECO Investigator Jo Ann Swain, was recently presented with the Investigator of the Year award by the Association of Real Estate License Law Officials (ARELLO).

The award was presented at the ARELLO Annual Conference held in New York City on September 16, 2007. The recipient of this award is selected by ARELLO's Investigator Resource Committee and recognizes an auditor or investigator currently working for an ARELLO member organization.

The investigative process is vital in ensuring and preserving the integrity of the real estate industry. The award criteria included the following elements of an investigative process:

- Audit/Investigative techniques
- Jurisdictional violations discovered
- Complexity of the case
- Documentation of evidence
- Reporting writing skills
- Innovation
- Use of resources
- Interview Skills
- Creativity

This is Jo Ann Swain's second recognition for professional excellence. In 2005, she was awarded Investigator of the Year by the Council on Licensure, Enforcement and Regulation. These recognitions reflects the high quality of work done by RECO's Investigators.

ARELLO's core purpose is to promote excellence in real estate regulation. Its membership comprises governmental agencies and other organizations around the world that issue real estate licenses/registrations as well as regulate and enforce real estate practice and law. RECO is a member of ARELLO.

Do you have any comments or inquiries about For the RECOrd newsletter?

Please send them to: Communications Department
E-mail: communications@reco.on.ca

Real Estate Council Of Ontario
3250 Bloor Street West
Suite 600, East Tower
Toronto, ON M8X 2X9
Tel: 416-207-4800
Toll-Free: 1-800-245-6910
Fax: 416-207-4820
E-mail: information@reco.on.ca



Disclaimer: While RECO makes every effort to ensure that the information in this publication is current and accurate, RECO does not warrant or guarantee that it will be free of errors. The information contained in this publication is not intended to cover all situations. It is general information only and users/readers are encouraged to seek their own independent advice for particular fact situations.

Return undeliverable Canadian addresses to:

Real Estate Council Of Ontario

3250 Bloor Street West, Suite 600, East Tower, Toronto, ON, Canada M8X 2X9

PM# 40041338