

For the

RECOrd

SUMMER 2007

Insurance Renewal 2007

For the past seven years, registrants and consumers have benefited from unique insurance coverage for claims resulting from errors or omissions, loss of deposits and loss of commissions. During this time, RECO has been able to arrange stable and affordable insurance coverage – more affordable and broader coverage than is available in any other Canadian jurisdiction.



Pay online through MyWeb at www.reco.on.ca.

Throughout the past fiscal year, RECO's focus remained consistent – ensuring the program remains financially sound and provides the coverage necessary to protect consumers and registrants engaged in trades in Ontario.

With a view to improving service to registrants and consumers, RECO has been conducting an ongoing review of a number of alternative insurance models. RECO realized that the long term stability of the program was dependent on effective control of the cost of claims. This was confirmed by, amongst other things, an exhaustive review of the claims management process.

After reviewing all of the above, RECO's Board of Directors is pleased to announce it has hired a new insurance broker, Alternative Risk Services, Inc., to implement a Managing General Agent (MGA) authority with Lloyd's of London to manage RECO's insurance program.

Under the MGA model, Lloyd's will continue to be the insurer of the program. The MGA will be managed by Dion Durrell + Associates Inc., who will bring cost-efficient and professional claims management to the program. A new Ontario-based claims adjusting firm and select panel of defence counsel will represent registrants who have claims made against them.

The MGA model provides the program with the maximum flexibility in terms of future options – including maintaining the status quo or moving to some form of self-insurance model. The MGA poses no financial risk to RECO or its registrants as the program remains fully insured.

Insurance Renewal Payments Are Due August 15, 2007

The total cost for insurance coverage, which includes errors and omissions, consumer deposit and commission protection insurance, including taxes and all other expenses, is \$199.89 – an increase of less than \$5 per registrant. Coverage has not changed.

Insurance renewal packages containing insurance invoices and related information were mailed to registrants the week of July 9th.

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Non-Payment Results in Suspension of Registration

The consequences related to failing to pay required insurance amounts have changed as a result of amendments to the *Real Estate and Business Brokers Act, 2002* (the Act) and regulations. The Act was amended by adding section 16.1.

Once the due date for payment has passed, the Registrar is obliged by the Act to initiate the suspension process for registrants who have failed to make the required payments. These suspensions do not require a Registrar's proposal to revoke registrations and cannot be appealed to the Licence Appeal Tribunal.

Insurance suspensions will take effect at 12:01 a.m. on September 1, 2007 as required by the Act.

Suspended registrants are not permitted to trade in real estate. In order to avoid suspension of registration, please ensure that your insurance renewal payment is made by August 15, 2007.

Claims MUST Be Reported Prior to August 31, 2007

Your Errors & Omissions insurance coverage, which expires on September 1, 2007 under the current policy placed by Aon Reed Stenhouse Inc. (Aon), is on a "claims made" basis.

The Aon policy only covers you for claims and/or circumstances that you are aware of up to August 31, 2007. A claim includes a demand (e.g. a threat) or a lawsuit or a notice of arbitration. A circumstance is a potential claim.

To avoid a denial of coverage under the current Aon policy, you must ensure that any claim or circumstance of which you are aware is reported in writing immediately (and in no case later than midnight on August 31, 2007) to the current insurer's claims adjuster as follows:

Denis Rivard, President

Leonard French & Co. Ltd.

531 Marion Street

Winnipeg, MB R2J 0J9

Phone: 204-985-1777

Toll Free: 1-866-220-9933

Fax: 1-866-220-9956

E-Mail: rivard@lfrench.com

A claim form is included in the renewal package and can also be downloaded from the RECO website.

"Associate Broker" Advertising Reminder

Under the *Real Estate and Business Brokers Act, 2002*, the terms "associate broker" and "associate real estate broker" may only be used until April 1, 2008. After April 1, 2008, all advertising must use the terms "broker" or "real estate broker". For registrants who have not yet made changes to their advertising materials, we recommend they do so now in preparation for the April 1st deadline.

Summary of RECO's 10th Annual General Meeting

RECO's Annual General Meeting took place on June 21, 2007 at The Old Mill Inn in Toronto.

The Chair, President/CEO and Registrar each addressed members and attendees, reporting on RECO's board, operational and regulatory activities. Their remarks, as well as the Annual Report for 2006-2007, can be downloaded from the main page of RECO's website at www.reco.on.ca.

There were four motions presented at the meeting.

- The firm of PricewaterhouseCoopers was appointed as auditors of the corporation until the close of the next Annual General Meeting of the corporation.
- Members approved amendments to By-law No. 9* that are required to facilitate the implementation of electronic voting for the election of Directors.
- Members approved a per diem of \$750 for the Chair and a per diem of \$500 for each of the other elected Directors, effective June 22, 2007.
- Members approved amendments to By-Law No. 11*, reducing the quorum requirement for meeting of members from fifty (50) eligible voting members to twenty-five (25) eligible voting members.

**Amendments to RECO's By-laws do not take effect until Industry Canada has approved the changes.*

Member Feedback

Members have indicated that they would like a discussion period (or question and answer period) included as part of the formal meeting agenda. The Board of Directors is taking this into consideration and will be reviewing options in advance of the next Annual General Meeting.

Chair and Vice-Chair for 2007-2008



Immediately following the Annual General Meeting, the Board elected Brian Sukkau to serve as Chair and Lawrence Bremner to serve as Vice-Chair until the close of the next Annual General Meeting. The next Annual General Meeting will take place on June 19, 2008.

Brian Sukkau, who served as Vice-Chair in 2006, joined RECO's Board of Directors in 2004.

He has served as a member of RECO's insurance committee and is currently a member of the By-Laws Committee, Chair of the Finance Committee and Chair of the Discipline Committee under By-Law No. 10.

Mr. Sukkau began his career in real estate in 1979. He graduated from the University of Western Ontario in 1985 and thereafter was broker/owner of Peter Sukkau Realty Inc. from 1987 to 2000. In 1997, Mr. Sukkau was presented with the President Award from the St. Catharines District Real Estate Board for recognition of outstanding performance and contribution to the local real estate board. Mr. Sukkau joined Royal LePage Niagara Real Estate Centre Inc., Brokerage in 2000 and has since achieved the President's Gold Award and the Award of Excellence for performance. Mr. Sukkau is currently Broker / Manager of the Niagara Falls Branch Office for Royal LePage Niagara Real Estate Centre Inc., Brokerage

Mr. Sukkau is a past president of both the St. Catharines District Real Estate Board (1996) and the Ontario Real Estate Association (2002).

PRIVATE HOME INSPECTION – *Strong in Ontario, Strong Across Canada*

Article provided courtesy of the Ontario Association of Home Inspectors

In Ontario, private home and property inspectors provide two core services which are essential in the real property marketplace:

- inspection services to buyers or vendors of existing and new residential and small commercial buildings during the sale process; and
- advice on the condition of buildings and building components for valuation, maintenance or insurance purposes.

Much of the business of inspectors involves re-sales and is identified by referral, and the vast majority of referrals come from members of the Ontario Real Estate Association (OREA).

Private home inspectors are strategic partners in the system which ensures public health and safety, value, and economic fairness of the building marketplace, particularly the residential marketplace. Inspectors complement the roles played by real estate professionals, appraisers, builders, code authorities, municipal and private enforcement staff, lawyers, mortgage lenders, structural professionals and para-professionals, and warranty and insurance systems. Inspectors help buyers risk-manage as they make acquisition decisions, and owners risk-manage as they operate their buildings and make investment decisions. As partners in this system, private inspectors always endeavour to operate in a manner consistent with the level of the other practitioners, using a risk model based on highly skilled practitioners carrying sufficient errors & omissions and general liability insurance.

In Ontario, organized private inspection is represented by the combination of two sister organizations: the Canadian Association of Home and Property Inspectors (CAHPI)



and the Ontario Association of Home Inspectors (OAHI). CAHPI-Ontario is one of seven member organizations of CAHPI National and the advocacy organization for inspectors in Ontario. OAHI is the only certifying organization in Ontario, pursuant to Provincial legislation granted in 1994. It regulates the prerequisite educational and experience qualifications for, and use of, the designations of “Registered Home Inspector” and “RHI”. It is now the only truly legitimate certifier of private inspectors in Ontario. Yet, 75% of private inspection is non-affiliated.



OAHI and CAHPI-Ontario have been evolving over the last decade, witnessed by, among other things, the following:

- strong membership growth to nearly 800 members;
- vibrant organizations with strong leadership, formal governance structures and active regional and topical committees;
- continuously improving education and testing requirements for members, delivered by its own qualifications and discipline process, and in partnership with several community colleges and regulatory bodies;
- success in creating and administering its own pooled insurance plan for members, launching in 2007;
- recruitment of its first Chief Operating Officer to help take the organization to the next level of legitimacy and success; and,
- more established advocacy and stakeholder relationships with industry, government and the media.



While OAHI and CAHPI-Ontario strive to provide a standard and value proposition to attract more of the unaffiliated, and often under-qualified, inspectors doing business in Ontario, they have also helped move the yardsticks nationally. A Canada Mortgage and Housing Corporation (CMHC) study in 1996 identified inconsistencies in home inspections across Canada. At the same time, there was increased demand for home inspections, and the lack of qualified practitioners led to a number of consumer concerns. CMHC demanded some level of competence and training. CAHPI is the organization that was created by the Canadian home inspection industry to undertake this and other projects at a national level, with the goal to establish and develop certification (persons) and accreditation (educators) models that will

lead to a recognizable and credible inspection industry across Canada.

Over a decade, using the frameworks of the National Occupational Standards and ISO related standards for certification and accreditation processes, CAHPI has created the National Certification Program and the associated designation of National Certificate Holder (NCH). As with many technical professions – engineering, survey, etc., it is now possible and advisable to hold both a provincial and national designation in inspection – the NCH, and the provincial designation of Registered Home Inspector (RHI). OAHI is

currently in the process of integrating the national system with the Ontario system so that they reciprocate. A major hope is that all of the unaligned inspectors in Ontario will pursue the NCH certification at a minimum, and continue to Ontario's RHI level, which is somewhat more stringent. This kind of continuous professional development

reduces risks for consumers and the marketplace.

On a final note, at the present time the Canadian home and property inspection occupation is neither regulated by government, nor fully codified by the formal demands of industry trading partners such as OREA. OAHI has long held the view that the private inspection sector should be regulated and self-managed, and that is the wish of the national level as well. Since housing and consumer protection are provincial matters, this means that each jurisdiction needs to answer the call. CAHPI-Ontario and OAHI are working with several government ministries and industry allies to make this happen in Ontario. If it doesn't happen, and even if it does, the real estate brokerage community should continue to exert influence over the quality, scope and affiliation of private home inspection in Ontario.

Regulatory Activity

February 2007 to May 2007

Under the *Real Estate and Business Broker's 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 & Enforcement" section of the RECO website.

REGISTRAR'S PROPOSALS

The Registrar has the authority to refuse, refuse to renew, revoke, suspend or apply 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.

Regina Volovik (*Richmond Hill, Ontario*)

The Registrar issued a proposal to revoke the registration of Regina Volovik on March 23, 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 Regina Volovik was revoked on April 25, 2007.

Robin Brown (*Georgetown, Ontario*)

The Registrar issued a proposal to refuse the registration of Robin Brown on January 30, 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 Robin Brown was refused on March 08, 2007.

Clayton Ryan (*Mississauga, Ontario*)

The Registrar issued a proposal to refuse the registration of Clayton Ryan on January 30, 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 Clayton Ryan was refused on March 08, 2007.

Jerome S. Nicholson (*Brampton, Ontario*)

The Registrar issued a proposal to revoke the registration of Jerome S. Nicholson on December 15, 2005. The proposal was appealed to the Licence Appeal Tribunal on January 04, 2006. By Order released on July 31, 2006, the Licence Appeal Tribunal directed the Registrar to carry out his proposal effective April 02, 2007. The registration of Jerome S. Nicholson, as a broker, was revoked on April 02, 2007. In accordance with the Decision of the Licence Appeal Tribunal, Jerome S. Nicholson is currently registered as a salesperson.

Ameer Baksh (*Hamilton, Ontario*)

The Registrar issued a proposal to revoke the registration of Ameer Baksh on July 06, 2006. The proposal was appealed to the Licence

Appeal Tribunal on July 20, 2006. By order released on January 10, 2007, the Licence Appeal Tribunal directed the Registrar to carry out his proposal effective July 02, 2007. The registration of Ameer Baksh was revoked on July 02, 2007.

CONVICTIONS

The Ontario Provincial Offences Act (POA) governs how charges are processed and prosecuted in the Ontario courts. The POA applies to all Ontario statutes and regulations, including REBBA 2002. Individuals found guilty of offences are subject to fines up to \$50,000 and a potential prison term of two years. Corporations found guilty of offences are subject to fines up to \$250,000. Courts also have the power to order convicted persons to pay compensation and make restitution.

Perry F Murphy, *February 16, 2007*

Perry F Murphy was found guilty of three counts of making false statements and was fined \$3,000 each on the first two counts and \$5000 on the third count, for a total fine of \$11,000. This conviction is currently subject to an appeal.

Century 21 Regal Realty Inc., *February 19, 2007*

Century 21 Regal Realty Inc. was found guilty of one count of employing an unregistered person and was fined \$5,000.

Jennifer Anne D'Andrade, *February 19, 2007*

Jennifer D'Andrade, broker of record for Century 21 Regal Realty Inc., was found guilty of one count of failing to ensure that the brokerage complied with the Real Estate and Business Brokers Act, 2002 and was fined \$5000.

Ahsan R. Qureshi, *February 19, 2007*

Ahsan R. Qureshi was found guilty of one count of trading in real estate while unregistered and was fined \$5,000.

Robert Wiafe-Ababio, *February 21, 2007*

Robert Wiafe-Ababio was found guilty of one count of failing to deliver a copy of an agreement of purchase and sale to his employing brokerage and was fined \$4,000.

Homelife Pine-West Realty Inc., *March 02, 2007*

Homelife Pine-West Realty Inc. was found guilty of four counts of breach of trust and was fined \$4,000 per count, for a total fine of \$16,000.

Vince Carere, *March 02, 2007*

Vince Carere was found guilty of four counts of breach of trust, one count of failing to keep a trade record sheet in prescribed form, and one count of failing to maintain trust account ledger. He was fined \$4,000 per count, for a total fine of \$24,000.

Courtney Wallis Simpson, *April 02, 2007*

In the November 2006 edition of For the RECOrd, we reported that Courtney Wallis Simpson had pled guilty to 22 charges under the Real Estate and Business Brokers Act. At that time, sentencing was scheduled for March 06, 2007. On April 02, 2007, Courtney Wallis Simpson was sentenced to imprisonment of one year for each of the first 21 charges, to be served concurrently, and one year for the remaining charge.

REBBA 2002 Compliance Matters

Every brokerage must have a designated broker of record

Designating a broker of record is a requirement and condition of registration under the *Real Estate and Business Brokers Act, 2002* (the Act) and its regulations.

In cases where the broker of record's registration has been terminated, suspended or lapsed (including situations where the broker of record voluntary left the employ of the brokerage), the brokerage must designate a new broker of record within 5 days and notify the Registrar of the change.

For more information refer to page 84 of the Guide to REBBA 2002 as well as Section 12 of REBBA 2002 and Sections 7 and 30 of Ontario Reg. 567/05.

What happens if the brokerage doesn't appoint a new broker of record?

If a new broker of record is not appointed within the required timeframe, the Registrar would be obligated to impose an immediate suspension of registration and issue a proposal to revoke the registration of the brokerage.

What happens to the registered employees?

The registration of the brokerage's salespersons and brokers automatically terminate when the brokerage is suspended as they must be employed by a registered brokerage in order to trade in real estate.

Given the potential effect on the registration of the brokerage's registered employees, it is crucial that every brokerage immediately appoints a replacement designated broker of record in the event that the original broker of record loses his/her registration, is no longer employed by the brokerage or is no longer able to perform his/her duties.

Registered and Unregistered Assistants

RECO frequently receives questions related to the types of activities an unregistered assistant can perform. *The Real Estate and Business Brokers Act, 2002* (the Act), clearly states that no person shall trade in real estate unless registered under the Act.

Some brokers and salespersons hire assistants, either registered or unregistered. It is very important to understand that there are clear limitations as to the duties an unregistered assistant can perform and/or be paid for.

Unregistered Assistants

An unregistered assistant cannot perform duties for which registration is required. Prohibited activities include:

- Being on site at open houses
- Phone solicitation
- Showing properties
- Being a participant at an offer or listing presentation

For more information refer to page 103 of the Guide to REBBA 2002 as well as Sections 4, 30 and 31 of REBBA 2002.

Any brokerage, broker or salesperson choosing to employ an unregistered assistant should be very cautious about the types of duties that the assistant undertakes. Please keep in mind that a brokerage must not pay an unregistered person for any activities for which registration is required.

Registered Assistants

Some brokerages, brokers and salespersons want to broaden the range of activities an assistant can perform and have hired registered assistants, who are entitled to trade in real estate. In these cases, the activities performed are not an issue.

Paying Registered Assistants

In the case of activities that are not "trading in real estate", the assistant may be paid by the broker or salesperson they are working for. For activities that are considered "trading in real estate", the assistant must be paid by the employing brokerage of the broker or salesperson the assistant has performed the services for.

RECO Introduces New Website and Online Guide to REBBA 2002

RECO recently launched a new website, with a view to improving access to information and launching a new Consumer Information section. With improved architecture, simpler menu selections, as well as sections dedicated to industry and consumer information, users will find it easier to obtain the information they need.

The Consumer Information section promotes the value of working with a broker or salesperson and offers consumer-focused information.

The Industry Information section features topics such as renewing your registration, continuing education, advertising and insurance. MyWeb users can now log on from the main page.

The new website also includes an online version of the Guide to REBBA 2002, which has been updated to include amendments to REBBA 2002 and its regulations that have taken effect since the Guide was published in March 2006.

The online guide includes A to Z topic listings and all other information contained in the hard copy version.

An added benefit of the online version of the Guide is the ability to update it as frequently as needed without incurring the costs involved in reprinting and delivering updated books to more than 50,000 registrants.

Visit the new RECO website at www.reco.on.ca



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

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