

For the

RECOrd



MARCH 2006

Guiding You Through Change

This year will be a busy and exciting one for RECO and registrants. On March 31, we will mark the achievement of long-awaited real estate act reform – the proclamation of the Real Estate and Business Brokers Act, 2002 (REBBA 2002). The successful implementation of REBBA 2002 is our top priority for 2006.

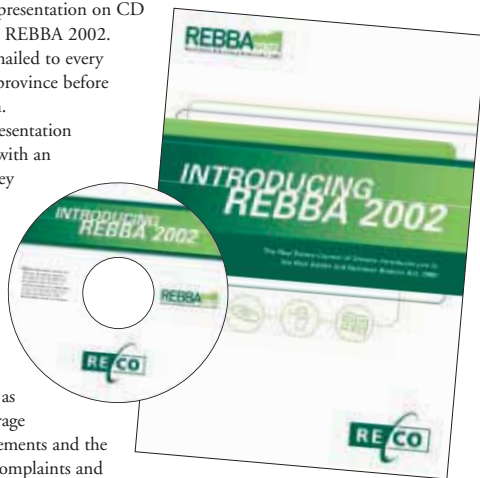
RECO introduces you to REBBA 2002

As the industry regulator, RECO has a responsibility to make you aware of the new legislative requirements and how they will affect your day-to-day activities. To meet this goal, RECO is producing a kit for registrants called "Introducing REBBA 2002." It contains a video presentation on CD and the Guide to REBBA 2002. This kit will be mailed to every registrant in the province before the end of March.

The video presentation will provide you with an overview of the key changes under REBBA 2002. Allan Johnston, the Registrar, and Brian Schlotzhauer, the Assistant Registrar, will cover topics such as changes to brokerage ownership requirements and the new Registrar's Complaints and Inquiries (RCI) Process.

The *Guide to REBBA 2002* is a 300-page publication that covers more

than 140 topics. You'll find this new publication – the first of its kind for RECO – to be a useful reference tool in the coming months. It consolidates a number of new and revised publications, including Registrar's Bulletins, Advertising Guidelines, and the REBBA Code of Ethics.



Introducing REBBA 2002 will be an indispensable resource that will

answer almost any question you might have about REBBA 2002 and its application to your day-to-day activities in the real estate business.

New and Improved Resources

Questions that are not answered by the kit may be directed to AsktheRegistrar@reco.on.ca. The "Ask the Registrar" e-mail address was activated in December, allowing registrants to contact the Registrar with questions about the new legislative requirements. The Frequently Asked Questions section of this newsletter is a result of the questions sent to us through that e-mail address over the past several weeks. We hope you find that some of your own questions are answered in the following pages.

The RECO website continues to be a popular resource for registrants. It has a special section dedicated to REBBA 2002, which provides easy access to all current information as well as new and revised publications. In addition to several new and revised publications, the Guide to REBBA 2002 will be made available in electronic format for easy reference. We encourage you to visit the website regularly for new and updated information about REBBA 2002 and a variety of other topics.

There has been a great deal of other work underway at RECO. There have been several discussions with the Ministry of Government Services regarding transitional issues,

for example the handling of complaints under the current and new complaints processes. The organizational structure has been adjusted. All of our processes and policies have been reviewed and revised. All existing forms, documents and publications and the RECO website have been reviewed and revised.

Registrants are up to the challenge

RECO has already accomplished a great deal. With more work ahead in the coming months, we know this year will be very busy. Be assured, we are up to the challenge.

We believe that registrants are up to the challenge too. The thoughtful, and sometimes complex, questions we receive are evidence of that. The "Introducing REBBA 2002" kit you will receive is the key to understanding the significant changes and ensuring you meet the new legislative requirements. Together, we will learn and adjust to these changes.

We can all enter this new era in real estate regulation with a sense of pride in what has been accomplished and confidence in the new regulatory framework.

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REBBA 2002 Frequently Asked Questions

The effective date of the *Real Estate and Business Brokers Act, 2002*, March 31, 2006, is approaching quickly. Understandably, registrants have many questions about changes under REBBA 2002. Over the past several weeks, RECO has received a large volume of calls and e-mails from registrants. The following are the most frequently asked questions.

Could you send a RECO representative to our brokerage to do a presentation on REBBA 2002?

Unfortunately, RECO does not have the resources to provide individual presentations for every brokerage in Ontario before REBBA 2002 comes into effect March 31.

However, to meet the needs of registrants, RECO has produced a kit titled *Introducing REBBA 2002* to help ensure you are informed and prepared. The kit contains a video presentation on CD-Rom and a Guide to REBBA 2002, which will serve as a handy resource. RECO will be mailing the kits to all registrants in March.

The CD provides an overview of the key changes to the Act, including brokerage ownership provisions, the handling of trust funds, the new Code of Ethics and the Registrar's Complaints and Inquiries Process, which will replace the current Complaints, Compliance and Discipline Process.

The 300-plus page *Guide to REBBA 2002* includes an A to Z topics section, new and revised Registrar's Bulletins, Advertising Guidelines and REBBA 2002 and its regulations.

What is a broker of record and who can become one?

A Broker of Record is designated by a brokerage to ensure that all its business activities and records are in compliance with REBBA 2002. Having a designated broker of record who is employed by the brokerage is a condition of registration under REBBA 2002. No application for registration will be approved by the Registrar without a broker of record.



As the effective date for REBBA 2002 approaches, registrants have been contacting RECO with a wide variety of questions.

If a brokerage is a sole proprietorship, the proprietor must be the broker of record, even if other brokers are employed by the brokerage.

When designating a broker of record, the Registrar requires the corporation's board of directors to pass a resolution, endorsed by the officers with the appropriate signing authority.

The Office of the Registrar recently mailed out letters to all brokerages to advise them of the need to designate a broker of record effective March 31, 2006. A sample corporate resolution was included with the letter.

The Registrar's office will need to have the name of the broker of record on file, along with appropriate documentation.

Brokerages should also identify another broker, employed by the same company, as an alternate signing officer responsible for reviewing and signing off on the following transactions when the broker of record is absent or unable to act:

- Trust account transactions
- Monthly trust account reconciliations
- Trade record sheets

Corporations must inform the Registrar in writing of the identity of the alternate signing officer. This broker may be designated internally, without a corporate resolution.

Understandably, if the broker of record is unable to perform their duties for a significant period of time – for example, due to a lengthy illness – the brokerage must designate another broker as the broker of record. This must be done through a corporate resolution. The Office of the Registrar must be advised, within five days, about this change.

The Broker of Record is one of the topics covered in a new set of Registrar's bulletins which will be published in the *Guide to REBBA 2002*.

What are the responsibilities of the Broker of Record?

The general responsibility of the broker of record is to ensure the brokerage complies with REBBA 2002. Specifically, these responsibilities include:

- Signing any brokerage financial statements sent to the Registrar
- Authorizing any trust account transactions
- Reviewing and signing monthly trust account reconciliations
- Reviewing and signing trade record sheets
- Actively participating in the management of the brokerage

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continued from page 2

- Ensuring an adequate level of supervision for the brokers, salespersons and other persons employed by the brokerage
- Taking reasonable steps to deal with any failure to comply with REBBA 2002 by brokers, salespersons and other persons employed by the brokerage

Will the broker of record be required to be the signatory on the commission trust account?

Yes. In fact, all trust money transactions and reconciliation statements must be authorized by the broker of record.

I would like to get new business cards printed. Can I still continue advertising as an associate broker or do I have to begin using the term "broker"?

Currently, registrants meeting the qualifications of broker are permitted to use the term "associate broker."

When REBBA 2002 comes into effect on March 31, 2006, only four registration categories will be permitted – Brokerage, Broker of Record, Broker and Salesperson. However, at the request of the real estate industry, the term "associate broker" is being gradually phased out. A

transitional period is provided, allowing the use of "associate broker" until April 1, 2008.

Advertising Guidelines, which include this topic, will be published in the *Guide to REBBA 2002*.

Is it possible for an owner/broker to own two different real estate franchises?

Under REBBA 2002 it will be possible for a broker to own two different corporations that may be under different franchise agreements.

A new Registrar's Bulletin that deals with RECO's requirements for real estate franchises will be published in the *Guide to REBBA 2002* and will also be available on the RECO website.

I plan to open a real estate office after March 31, 2006. Can my partner, who is not a registrant, hold 50 percent or more shares in my corporation?

Under REBBA 2002, any person – non-registrant or registrant – can own up to 100 percent of a registered real estate company provided that all the conditions for successful registration are met.

You should however know that under the new Act, the Registrar will assess all "interested persons," as well as the actual applicant, when an application for registration is submitted.

Interested persons are defined as, a) a person who has or may have a beneficial interest in an applicant's business, b) a person who exercises or may exercise control either directly or indirectly over the applicant's business or, c) a person who has provided or may have provided financing either directly or indirectly to the applicant's business.

Registration could be refused if the Registrar believes the conduct of an "interested person" creates a reasonable apprehension that the business will break the law and act dishonestly and without integrity.

A new Registrar's Bulletin about this topic will be published in the *Guide to REBBA 2002* and will also be available on the RECO website.

I have dormant funds in my trust account. Can I send it to RECO now?

REBBA 2002 does not come into effect until March 31, 2006. As such, RECO currently has no authority to receive unclaimed trust money. Effective March 31, 2006, you may send unclaimed trust account funds to RECO, as long as you have satisfied the requirements stipulated in sections 27 (4) and 27(5) of REBBA 2002.

A new Registrar's Bulletin describing the process for handling unclaimed trust money will be included in the *Guide to REBBA 2002* and will also be available on the RECO website.



A Message from the Honourable Gerry Phillips, Ministry of Government Services

As the minister responsible for consumer protection in Ontario, I am pleased to be working with the Real Estate Council of Ontario to implement the *Real Estate and Business Brokers Act, 2002* to increase protection for homebuyers and sellers and provide new safeguards for consumers.

I would also like to take this opportunity to thank RECO and its registrants for their input on the development of the legislation and regulations.

As you know, the act will come into effect on March 31, 2006. It is part of the government's plan to ensure a safe, informed and prosperous marketplace in our province. REBBA 2002 will foster business and consumer confidence in Ontario's real estate market, give consumers better disclosure and protection and

respond to the sector's needs for a more modern, flexible statute.

We know that buying and selling a home are two of the most important decisions Ontarians will make in their lifetime. We also know that RECO registrants play a vital role in Ontario's real estate sales sector.

I am aware that RECO will publish a guide to the new act and its regulations, which will be delivered to every registrant in March.

I encourage you to become familiar with the new legislative requirements in advance of the act's implementation.

The government is dedicated to protecting Ontarians in our ever-changing and increasingly demanding marketplace while also helping to create the conditions for a prosperous economy. Your role in protecting consumers and maintaining a safe and vigorous real estate marketplace is greatly appreciated.



2006 Election of Directors Call for Nominations



Members of the Real Estate Council of Ontario who are interested in serving on its Board of Directors are required to submit their Nomination Forms no later than:

2:00 p.m. EST, April 3, 2006

Three Directors will be elected — one in each of the three regions of the province as established by RECO. A copy of the Nomination Form and Candidate Instructions are posted on RECO's website at www.reco.on.ca

For more information contact:
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Toll-free: 1-800-245-6910
E-mail: election@reco.on.ca



RECO REMINDER

RECO Seeking Members for New Commercial Real Estate Advisory Group

The Commercial Real Estate Advisory Group (CREAG) is being established to provide advice to the RECO Board of Directors on regulatory issues in the commercial real estate sector. RECO is currently seeking five registrants, whose main area of practice is commercial real estate, to serve as members of the new CREAG.

Registrants interested in being considered as a member of the CREAG should apply no later than Wednesday, March 15, 2006. Applicants selected to serve as members of the CREAG should anticipate an initial commitment of at least 15 months. Visit the RECO website for more information about the CREAG and to obtain the application form.



Public Trust In The Real Estate Marketplace

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

Please send them to:

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