

**MEMORANDUM OF UNDERSTANDING
LAWYERS TRADING IN REAL ESTATE**

Between:

THE SASKATCHEWAN REAL ESTATE COMMISSION

and

THE SASKATCHEWAN REAL ESTATE ASSOCIATION

and

THE SUPERINTENDENT OF REAL ESTATE

and

THE LAW SOCIETY OF SASKATCHEWAN

WHEREAS the Saskatchewan Real Estate Commission has responsibility for administering *The Real Estate Act* and governs registrants who trade in real estate in Saskatchewan;

And whereas the Saskatchewan Real Estate Association is the provincial trade association representing registrants who trade in real estate in Saskatchewan;

And whereas the Superintendent of Real Estate has oversight responsibilities for *The Real Estate Act*;

And whereas the Law Society of Saskatchewan has responsibility for governing the legal profession in Saskatchewan;

And whereas Clause 3(1)(f) of *The Real Estate Act* states that this Act does not apply to:

“subject to ss.(3), a lawyer trading in real estate in the course of and as part of his or her practice.”

And whereas the parties wish to agree to the activities that can be undertaken by legal assistants under the supervision of a lawyer trading in real estate and establish a process to ensure that the activities followed by lawyers trading in real estate in the course of and as part of their practice meet an exemption provided for lawyers in *The Real Estate Act*.

TERMS and CONDITIONS

The Saskatchewan Real Estate Commission, the Saskatchewan Real Estate Association, the Superintendent of Real Estate and the Law Society of Saskatchewan HEREBY AGREE AS FOLLOWS:

1. Listings

Prospective sellers who wish to engage a law firm to sell real estate through the law firm will be directed to contact a lawyer with the law firm. If the firm's legal assistant is contacted initially, the legal assistant will refer the potential seller to a lawyer of the firm to discuss the listing and sale. A lawyer will discuss a prospective seller's needs and interests with the seller, optimally in person, but alternatively by telephone if necessary. Each lawyer who is trading in real estate shall take reasonable steps to discover facts pertaining to every property that a prudent realtor would take in order to avoid error, misrepresentation, or concealment of pertinent facts.

If the seller wishes to proceed after this discussion has occurred, the lawyer will draft, or supervise the preparation of the listing agreement and a fact sheet with respect to the property. These documents will be provided or faxed to the seller for review. The seller and the lawyer will review the listing agreement and the fact sheet and make any necessary changes. When the documents are in order, the seller will approve the fact sheet and sign the listing agreement, which may be witnessed by the legal assistant.

Legal assistants cannot solicit or accept new clients, solicit or negotiate listing agreements or provide legal advice with respect to trades in real estate.

2. Offers

Potential buyers wanting to make an offer on real estate being sold through the seller's law firm will be directed to contact, either personally or through their solicitor, a lawyer at the law firm. If the firm's legal assistant is contacted initially, the legal assistant will refer the potential buyer to a lawyer of the firm to discuss the offer.

A lawyer who is retained by a prospective buyer will discuss that prospective buyer's needs with the buyer, optimally in person but, alternatively, by telephone if necessary. If the buyer wishes to proceed after this discussion has occurred, the lawyer will draft, or supervise the preparation of an offer that will be provided or faxed to the buyer for review. The purchaser and the lawyer will review the offer document and make any necessary changes. When the offer document is in order, the buyer will sign the offer, which may be witnessed by the legal assistant.

Legal assistants cannot solicit or accept new clients, negotiate terms of offer or purchase or provide legal advice with respect to trades in real estate.

3. Showing the Property

The property will be shown by a lawyer. Where the potential buyer wants to see the property and a lawyer is not available to show it, a legal assistant, with direction from the lawyer, may provide the buyer with a fact sheet on the property which was prepared by the lawyer and may provide access for a viewing of the property, for security reasons only. The legal assistant will not discuss particulars of a fact sheet or the property with the buyer. Rather, the particulars of the fact sheet or property will be discussed with a lawyer from the listing firm.

4. Advertising

The property being sold must be advertised in the name of the owner in accordance with subsection 3(3) of the Act. The advertisement of a property will only direct potential buyers to contact a lawyer of the law firm or the law firm.

5. Amendment

This Memorandum of Understanding may require amendment in the future as a result of changes to the legislation governing the real estate industry in Saskatchewan. It is agreed that this Memorandum does not apply to sale of land by tender where the lawyer is acting solely for the vendor and in accordance with the law dealing with sale of land by tender.

An executed copy of this Memorandum of Understanding shall be held by each of the Saskatchewan Real Estate Commission, the Saskatchewan Real Estate Association, the Law Society of Saskatchewan and the Superintendent of Real Estate.

IN WITNESS WHEREOF the parties hereto have duly executed this Memorandum of Understanding dated this 5th day of December, 2005

Saskatchewan Real Estate Commission

By: Al Jacobson

Saskatchewan Real Estate Association

By: [Signature]

Superintendent of Real Estate

By: [Signature]

Law Society of Saskatchewan

By: [Signature]