

# The Register



May 2006

## *SREC Annual Meeting*

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The Saskatchewan Real Estate Commission's seventeenth Annual Meeting took place on Thursday, April 27, 2005 at 1:15 p.m. in Saskatoon. Chairperson, Phil Hoffort welcomed all registrants to the meeting, introduced the members of the Commission and its staff and presented his Chairperson's report.

Mr. Jim Hall, Superintendent of Real Estate brought greetings on behalf of the Minister of Justice and the Deputy Superintendent of Real Estate. He noted that the Commission has the interests of the consumer at heart. Mr. Hall extended his thanks to the Commission members and staff for a job well done.

The Commission's guest speaker was Dana Szafron. Ms. Szafron is the Account Manager for Genworth Financial Canada, previously known as GE Mortgage Insurance and has been in this role for 3½ years. Dana's prior 5 years of industry experience was as a mortgage broker in Saskatoon. The experience gained between these 2 roles in the financial industry has allowed Dana to see some very different angles on mortgage fraud and Ms. Szafron was asked to speak at the annual meeting regarding mortgage and identity fraud. Ms. Szafron gave a 50 minute power point presentation that was very informative and well received by the audience.

## *Election Results*

Pursuant to Bylaw 216.2, the Commission sent out notification in January to registrants in Region 3 (Rural Saskatchewan) requesting nominations for the two Commission positions that would become vacant July 1, 2006. In accordance with Bylaw 217.2, the nominations were to be submitted prior to February 16<sup>th</sup>. Only two nominations were received for the two positions. Therefore, pursuant to Bylaw 219.1 the Registrar declared Scott Musgrave of Musgrave Agencies Ltd. in Lloydminster and Ron Skinner of Royal LePage Premier Realty in Yorkton elected to serve three-year terms with the Commission commencing July 1<sup>st</sup>.

Similarly, a request for nominations went out to the registrants in Region #1 (Saskatoon). Two nominations were received for the one position (Terry Alm of Realty Executives Saskatoon and Anne Odishaw of Re/Max Saskatoon). Pursuant to the bylaws, the ballots for this position were counted on April 26, 2006 and Anne Odishaw was elected as a member to the Commission commencing July 1, 2006.

## *Changes at the Saskatchewan Real Estate Commission*

The Saskatchewan Real Estate Commission is pleased to introduce its newest members. They are:

### **Donnett Elder**

Donnett Elder owns and operates a farm/cattle ranch at Fillmore, Saskatchewan. She is a proud grandmother of nine grandchildren.

Mrs. Elder served seven years as Vice Chair and seven years as Chairperson of the Farm stress Line Advisory Group. She has spoken both provincially and nationally on Farm Stress and Coping with Stress.

As published in the *Canadian Plains Research Centre* book, Donnett is one of the three hundred leading agriculturists in Saskatchewan.

Donnett served as a director for Sask. Water, Chairperson of the Weyburn Central School Division for seven years and board member of the Saskatchewan School Trustee Association.

### **Scott Musgrave**

Scott enjoys his family, both at work and play. He considers himself fortunate to work in a family business and have his own family based in Lloydminster. Lori and Scott have found that Lloydminster is the best place in Canada to live as a family. Whether you are in pre-school, a teenager, a recent graduate or retired, Lloydminster is an exceptional city of opportunity.

Scott studied at Lake Land College, University of Lethbridge and the University of Saskatchewan completing a B.Ed, B.Mgmt and an MBA. The highlight of Scott's professional background includes teaching college and university business studies, working at Sunshine Village and Panorama snow resorts, marketing in Hong Kong, and most importantly working with an exceptional real estate team. Scott's other business interests include insurance, development projects in Saskatchewan, Alberta and B.C. and most recently Musgrave Agencies has created a state of the art hotel in Lloydminster – Musgrave Agencies Hospitality Inns and Suites.

Scott, Lori and family enjoy the theatrical community, although Scott has NO musical talents; however, Lori and the kids sing, dance, perform and play a variety of musical instruments with Scott as a willing roadie. He is a pilot with a special interest in float flying, he teaches skiing and coaches football, enjoys old cars with his son and maintains horses with his daughters. Scott is active in the community including rotary, festival of tree's and organized real estate. In 2006 he was recognized by the Lloydminster Board and AREA for community contribution as the 2006 Quality of Life Award recipient. Scott is please to be appointed to SREC and looks forward to the new challenge.

### **Anne Odishaw**

Mrs. Odishaw has been involved in the real estate industry for the past 30 years. She is currently the branch manager for Re/Max Saskatoon's east office.

Anne has served the industry in the following capacity:

- Saskatoon Real Estate Board of Directors (1981 to 1988)
- First female President of the Saskatoon Real Estate Board (1987)
- Saskatoon Realtor of the Year (1996)
- SREA Director (1984 to 1985) (1988 to 1989)
- SREC Member (1989-1990) (2002-2005)

### **Ron Skinner**

R.A.( Ron ) Skinner was born and educated in Yorkton, Saskatchewan and continued through high school on to a post-secondary course in radio and television technology at the Red River College in Winnipeg, Manitoba. He started working in the broadcasting industry in 1974. He worked in the Operations and Production departments of CKOS-TV and in 1977 he joined the sales department.

In 1980 Ron, as Vice-President of the newly created company Image Cable Systems Ltd., was responsible for the building and completion of 50 small cable television systems in 50 communities across the Province of Saskatchewan.

In 1988 Ron entered the real estate industry and is

currently the broker/owner of Royal LePage Premier Realty, with seven registrants, as well as maintaining active sales and listings in commercial and residential real estate. He was elected to the Yorkton Real Estate Association 1989 to 1994 and served as its President in 1991 and 1992 and in 2006 he was re-elected as a Director. Ron served on the Board of Directors of the Saskatchewan Real Estate Association for three years, from 1995 through to 1997 & 2001 to 2004. In 2003, he represented SREA as its President.

In 1998 & 2003, Ron was recognized as the Yorkton Real Estate Association's CMHC Realtor of the Year. The annual recipients of this award are recognized among their peers for their dedication and professionalism within the real estate industry.

Throughout his career, Ron has been active in various community committees. He was an active charter member of the Sunrise Lions Club for 20 years; serving as the club's president in 1991. Ron chaired the Yorkton Farm and Leisure Show in 1995 and 1996 and organized the Yorkton Cancer Society's annual "jail and bail" in 1995.

Ron and his wife, Gaylene, have two children: a daughter, Whitney (18) and a son R.J. (15). The family enjoys golf, football, snowmobiling and cross-country skiing.

## *Urgent—Please Take Note*

To expedite your correspondence in reaching the Saskatchewan Real Estate Commission's office in a timely fashion, please ensure that our new address and fax number are being utilized.

Address:

**237 Robin Crescent  
Saskatoon, Saskatchewan  
S7L 6M8**

Fax #: **306-373-2295**

**Saskatoon registrants please take note that the Commission does not receive deliveries via the Saskatoon Real Estate Board's daily delivery service.**

## *Thank You*

The Saskatchewan Real Estate Commission members and staff extend their sincere appreciation and thanks to Gary Cossette and Phil Hoffort for their contributions to the real estate industry as members of the Commission.

Gary commenced his service as a Commission member in July 2001. During his five years as a Commission member, Gary served on the following Commission Committees:

- Legislative Committee 2001-2006
- Management Committee 2002-2006
- Registrar Selection Committee 2005-2006

Phil served three separate terms with the Saskatchewan Real Estate Commission:

- July 1, 1996 to June 30, 1999
- July 1, 1999 to June 30, 2002
- July 1, 2003 to June 30, 2006

During his tenure on the Commission, Phil served as follows:

- Legislative Committee 1998-99, 2004-05
- Investigation Committee 1998-01, 2003-05
- SREC Chairperson 1999/00 and 2005/06
- Management Committee 1999-01 & 2005-06
- Errors & Omissions Task Force 1999-00, 2000-01
- Communications Task Force 1999-00
- SREC Vice Chairperson 2000/01 & 2001/02
- Education Committee 2003-04
- Registrar Selection Committee 2005-06
- Building Committee 2005-06

Gary's and Phil's dedication and assistance to the industry through service on the Commission will be missed. Again, thank you Gary and Phil and all the best to you in your future endeavours.

## *2006-2007*

### *Registration Fees*

At the Commission's May 11, 2006 meeting, the final 2006-2007 budget was approved. The registration fees for the upcoming fiscal period will be reduced to \$405 for all registrants. This total includes an \$80 E & O Recapture and Un-allocated Surplus Contribution amount. In addition, the Errors and Omissions Insurance premium remains at \$205.

## *Education Review*

The Commission has revisited the Models of Education in place for its registrants. After its review, the Commission recommended that: “the present Model of Education be changed to have all required licensing education integrated into pre-licensing courses.”

The Saskatchewan Real Estate Association’s Directors asked the Commission’s Registrar to attend their April 28, 2006 meeting to clarify some misunderstandings and to provide the rationale for the Commission’s recommendation. The Commission’s Executive Director/Registrar gave a verbal presentation along with providing a written submission to the Association’s Board of Directors. The Commission outlined 19 points in the written submission for the Association’s response.

The feedback the Commission has received from the industry members has been very positive and supportive of the Commission’s initiative relating to education. The Commission feels that the recommendation is one that is needed to provide:

- an appropriate level of public protection;
- efficiency and consistency in the real estate industry;
- a less cumbersome education system;
- relevant course material;
- a similar model of education practiced in other jurisdictions and service industries; and
- a level playing field for all registrants.

## *Your E-mail Address*

The Saskatchewan Real Estate Commission is sending periodic communication on current issues to its registrants via e-mail. If you are not receiving our e-mail circulars, your e-mail address may not be correct or may not be on file with the Commission. Please help us help you by providing your current e-mail address through the June registration renewal process.

## *Notification of Registration Renewal*

June 30th is the date that all Certificates of Registration expire and it is necessary for you to renew your registration.

The official notification for registration renewal was sent out May 23rd. We would request that brokers review the statement carefully, record any necessary changes on the statement and remit the required fees for the entire brokerage. To facilitate quicker processing of applications, the brokerage is asked to issue only **ONE CHEQUE/VISA/MASTERCARD TRANSACTION MADE PAYABLE TO THE SASKATCHEWAN REAL ESTATE COMMISSION** for all registration fees owing by all registrants of the brokerage.

Unless the brokerage is using the Commission’s On-line Registration process, the renewal application forms and registration fees must be returned prior to June 15<sup>th</sup>. This deadline date provides the Commission two weeks to process all applications and to ensure that you are properly registered to trade in real estate July 1<sup>st</sup>. SREC On-line brokers are requested to process the bulk of your registration renewals prior to the last week in June via the Internet.

Failure to renew your registration for July 1, 2006 means that: a) you will no longer be eligible to trade in real estate until the proper application form and fees have been received in the Commission office; and b) the brokerage can be assessed the full Real Estate Assurance Fund fee as if it were a new brokerage applying for registration for the first time.

# Real Estate Outside Saskatchewan

## **What is a trade?**

A trade in real estate is defined in Section 2(bb) of *The Real Estate Act*. The definition includes a disposition or acquisition of real estate, an offering, advertisement, listing or showing of real estate, an offer to purchase, property management, including any conduct, act or negotiation, in the furtherance or attempted furtherance of a trade. This definition is very broad based and severely limits an individual from trading in real estate without being registered or licensed to trade.

## **Who can trade?**

Saskatchewan registrants may conduct trades relating to real property located outside of Saskatchewan provided that the trade occurs in Saskatchewan. A Saskatchewan registrant would have to hold a license from another jurisdiction in order to trade within that jurisdiction/province. An individual licensed to trade in another jurisdiction would not be permitted to trade in Saskatchewan without holding a Certificate of Registration in Saskatchewan. A registrant can hold only one Certificate of Registration with one brokerage in Saskatchewan.

## **When is a Prospectus required?**

A Saskatchewan registrant who is trading beyond the isolated trade exemption in the Act [Section 74(1)] must file a prospectus with the Saskatchewan Real Estate Commission before trading in real estate located outside Saskatchewan. The details of completing a prospectus are outlined in Appendix A of the Real Estate Regulations. The Saskatchewan Real Estate Commission has interpreted an isolated trade to mean two or less trades per year.

## **How is Commission or Remuneration Collected?**

In order to receive or pay commission or remuneration for a trade in real estate in Saskatchewan, a brokerage must be registered to trade in Saskatchewan. A broker, associate broker, branch manager or salesperson must receive any commission or remuneration from that individual's brokerage. *The Real Estate Act* prohibits a Saskatchewan registrant from paying commission or other remuneration to a person who is required to be registered in Saskatchewan but is not so registered. Putting the legislation into perspective, a brokerage

licensed to trade only in another jurisdiction outside of Saskatchewan cannot enter into an agreement with a Saskatchewan brokerage to share commissions. (e.g. A brokerage is restricted by legislation from paying a buyer's brokerage commission to a brokerage registered outside of Saskatchewan. Conversely, a Saskatchewan brokerage is restricted by legislation from receiving a commission from a brokerage registered outside of Saskatchewan.)

The important fact to remember is that registration or licensing is a Provincial requirement. There is no automatic right to trade in all provinces as a result of being registered in one province.

A final point for clarification is that generally speaking, referral fees or finder's fees are not considered trades in real estate in Saskatchewan. As a result, paying these fees is an acceptable practice in Saskatchewan.

## Payment of Remuneration to a Registrant's Corporation

The Saskatchewan Real Estate Commission received a legal opinion from its solicitor relating to this issue. The following is an excerpt from the solicitor:

"It is clear that only registrants are entitled to earn commission but they can assign the payment of the commission due to them to their personal corporation. The payment directly from the brokerage to the personal corporation does not breach the *Act* because the personal corporation is not required to be registered because it does not trade in real estate. It should be noted that this assignment of the payment is no different than an assignment to a bank or other third person. It does not make the personal corporation the entity that has "earned" the commission. Provided that the personal corporation is not trading in real estate, a brokerage can pay the remuneration earned by a registrant directly to the personal corporation of the registrant."

The Commission is proceeding with the development of a few basic bylaws that will require a registrant to have a written agreement in place with the brokerage. In the agreement a registrant will assign remuneration earned in real estate trades to the registrant's personal corporation. In addition, the agreement will have to stipulate that the registrant's personal corporation is not trade in real estate.

## *Broker Registration Requirements after July 1, 2006*

**(NOTE: The following does not apply to those registered under the new Model of Education that began February 2004.)**

Individuals who obtained salesperson registration status by completing the *Fundamentals of Real Estate* course, the *Real Estate 100* course, the *Real Estate 150* course or the old pre-licensing course and wish to obtain associate broker, branch manager or broker registration status, please review the following items carefully to determine what your educational requirements are after July 1, 2006:

1. If you have completed *Principles of Real Property Law*, *Principles of Mortgage Financing* and *Principles of Real Estate Appraisal* and are currently enrolled in either of the two courses; *Real Estate Office Management* or *Working Within the Real Estate Act*, you must complete these two courses prior to September 29, 2006. If this September 29, 2006 deadline is not met for either of these two courses, the ***Real Estate Office Management and Brokerage*** course will have to be completed.
2. If you have completed *Principles of Real Property Law*, *Principles of Mortgage Financing* and *Principles of Real Estate Appraisal* but have not yet enrolled in either of the two courses *Real Estate Office Management* or *Working Within the Real Estate Act*, you are required to complete the new ***Real Estate Office Management and Brokerage*** course.
3. If you have completed *Principles of Real Property Law* and *Principles of Real Estate Appraisal* but have not yet enrolled in either of the two courses *Real Estate Office Management* or *Working Within the Real Estate Act* and you have also not completed *Principles of Mortgage Financing*, you are required to complete the ***Real Estate as a Professional Career*** and ***Real Estate Office Management and Brokerage*** courses.
4. If you have not completed any courses beyond your initial salesperson registration course, you are required to complete the following:
  - (a) *Principles of Real Estate Appraisal*;
  - (b) *Principles of Real Property Law*;
  - (c) *Real Estate Office Management and Brokerage*; and
  - (d) *Real Estate As a Professional Career*.

Impending changes to the real estate legislation will remove the residential restriction for associate broker, branch manager or broker registration status. A registrant's Certificate of Registration will permit the registrant to trade in all categories of registration (i.e. Residential, Commercial, Farm or Property Management).

Upon achieving the educational requirements for the associate broker, branch manager or broker registration status, you may choose one of the following two options relating to associate broker registration:

- (a) remain registered as a salesperson in the applicable registration year and apply for associate broker status the following July 1 registration renewal period; or
- (b) apply immediately for associate broker registration by submitting an application form to the Saskatchewan Real Estate Commission along with the \$135 fee to change registration categories.

## Commission Disciplinary Action

Results of recent Mitigation and/or Formal Hearings conducted by the Commission.

### **Paul Ehmann, Broker, Countrywide Realty Ltd. – Regina**

**Date of Written Decision:** March 28, 2006

**Disposition:** Paul Ehmann received a letter of reprimand and an order to pay a \$3,000 fine for violating Section 39(1)(a) of *The Real Estate Act* and an order to pay a \$2,000 fine for violating Section 58(1)(a) of *The Real Estate Act*.

**Violations:**

- a) Section 39(1)(a) of the *Act* states: “Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is professional misconduct within the meaning of this *Act*, if it is harmful to the best interests of the public, the registrants or the Commission.”
- b) Section 58(1)(a) of the *Act* states: “An offer to purchase obtained by a registrant is to be in writing, dated and signed by the buyer in the presence of a witness.”

**Details:** In September 2004, Paul Ehmann entered into an In-house Exclusive Seller’s Brokerage Contract and an Exclusive Landlord’s Brokerage Contract with a seller of a major commercial warehouse office facility. Approximately one week after entering into the Exclusive Landlord’s Brokerage Contract, Mr. Ehmann entered into verbal negotiations with a prospective tenant for a portion of the property. Mr. Ehmann did not immediately commit the agreed to \$1,000 per month plus utilities offer to lease (offer to purchase) to writing nor did he provide a copy of a lease to the tenant.

In April 2005 Mr. Ehmann entered into another \$1,000 per month lease (for another portion of the property) with a second tenant with an immediate possession date. Although Mr. Ehmann did not receive a deposit for the property, he did allow the new tenant to deliver construction material with the possibility of accessing the property in mid-April 2005.

In mid-April 2005, Paul Ehmann signed a \$10,000 per month, four-month lease for the entire property to a third tenant with tenancy commencing May 1, 2005. In error, Mr. Ehmann and/or his agents attempted to evict the first tenant without proper notice; the actions of which resulted in an on-going Court of Queen’s Bench case against the owner and Paul Ehmann.

In handing down its decision, the hearing committee took into consideration the fact that Paul Ehmann had one previous discipline matter before the Commission. In mitigation, the hearing committee acknowledged that Mr. Ehmann admitted his error and personally appeared before the committee. The hearing committee, in its decision, reinforced the importance of writing and clearly stating the terms and conditions of contracts with clients. The opinion of the hearing committee was that if Paul Ehmann had committed the initial tenancy agreement to writing and obtained written acknowledgement from all parties, less confusion would have occurred. The hearing panel emphasized the need for registrants to obtain clear and concise contracts, acknowledged in writing by the respective parties and that registrants must adhere to all Saskatchewan legislation.

### **J.J. Barnicke Regina Ltd, Brokerage – Regina**

**Date of Written Decision:** March 28, 2006

**Disposition:** J.J. Barnicke Regina Ltd. received a letter of reprimand and an order to pay a \$1,000 fine for violating Section 69 of *The Real Estate Act*.

**Violation:** Section 69 of the *Act* states: “No action or proceeding shall be commenced for the recovery of any commission or other remuneration for services in connection with a trade in real



estate mentioned in subsection 68(1) unless the contract on which recovery is sought or some note or memorandum of the trade has been obtained; and is in writing signed by the person liable for the payment of the commission or other remuneration or by some person authorized to sign on behalf of the person liable for payment of the commission or other remuneration.”

**Details:** In September 2000 J.J. Barnicke Regina Ltd. operated under an agency agreement with the owner of a property in Regina. By early 2001 the property changed ownership; however, J.J. Barnicke Regina Ltd. remained the leasing agent through a verbal agreement with the new ownership group.

In the late spring and early summer of 2003, a potential buyer group surfaced and eventually the property sold to new owners with a new property management group designated. In December 2003, the new ownership group declined to sign any leasing or agency agreement with J.J. Barnicke Regina Ltd. as the ownership group used their own in-house leasing agent. In May 2004, the new ownership group provided written confirmation to J.J. Barnicke Regina Ltd. that all leasing and renewal aspects would be handled by the in-house leasing agent.

In September 2004, the major tenant at the property, a provincial department, solicited public tenders in the Regina area for office space. The new ownership group successfully completed the tender and the provincial department remained at the property. J.J. Barnicke Regina Ltd. initiated a Queen’s Bench Court action seeking commission or other remuneration in relation to the new tenancy agreement. Ultimately, the Queen’s Bench Court case by J.J. Barnicke Regina Ltd. failed, as the Court identified the absence of a written agency agreement and Section 69 of *The Real Estate Act* as a bar to the commencement of any action.

In handing down its decision, the Commission’s hearing committee acknowledged that J.J. Barnicke Regina Ltd. initiated Queen’s Bench Court action based on senior legal advice. The hearing committee acknowledged the significance of agency relationships and the need for those relationships to be in writing. The sanction imposed is meant as a general deterrence for all registrants to ensure that they know *The Real Estate Act* and the consequences for non-compliance.

## *SREC Contact Info*

Saskatchewan Real Estate Commission  
**237** Robin Crescent  
 Saskatoon, SK  
 S7L 6M8

Our fax number is: **306-373-2295**

Our telephone numbers remained the same:  
 1-306-374-5233  
 1-877-700-5233

Our website address is: **www.srec.ca** and we may be reached at the following e-mail addresses:

Al Jacobson	ajacobson@srec.ca
Ed Miller	emiller@srec.ca
Verna Olfert	volfert@srec.ca
Jason Weiler	jweiler@srec.ca
Allan York	ayork@srec.ca

## *Commission Members*

Phil Hoffort (North Battleford), Chairperson  
 Larry Gingerich (Saskatoon,) Vice Chairperson  
 Gary Cossette, Regina  
 Donnett Elder, Regina  
 Cheryl Elliott, Prince Albert  
 Phillip Mack, Regina  
 Terry Powell, Saskatoon  
 Cameron Wilkes, Regina

## *Commission Staff*

Al Jacobson, Executive Director/Registrar  
 Ed Miller, Director of Investigations/Audits  
 Verna Olfert, Director of Registration  
 Jason Weiler, Systems Administrator  
 Allan York, Investigative Accountant

## *Mission Statement*

**To protect the public interest by ensuring that registrants act within a professional framework that promotes ethical conduct and integrity and strengthens consumer trust and confidence.**