



# THE REGISTER

SREC Newsletter

May 2016

## Executive Director/Registrar's Message

Aaron Tetu, Executive Director/Registrar, SREC

The Commission recently conducted its election for the Saskatoon Region and two members were re-elected to serve on the Commission for additional three year terms. Congratulations to Al Myers and Dave Hepburn on being re-elected. The Commission also undertook the appointment of its member of the Industrial, Commercial, and Investment real estate position. The Commission's Selection Committee received several applications, conducted interviews, and made a recommendation to the Commission as to the appointment. The Commission agreed with the recommendation and has re-appointed Trevor Koot of Swift Current to the position for another three year term. The Commission would like to thank all of those who put their names forward and may look to those individuals in the future for their input and expertise.

While the Commission continues to invite your inquires, we would like to note that *The Register* can be used as a source of guidance and information. As you will see in the reviews and articles here, *The Register* can often be used to answer questions that you might have; previous editions are available on the Commission's website. Please take the time to review this edition, and past editions, as we often include information on current trends, topics, and common questions that come from registrants and the public to our office.

If you cannot find the information you require in *The Register* or on our website, please do not hesitate to contact the Commission office with any questions or concerns that you might have. We will do our best to assist you.

As always, we hope you find this edition of *The Register* to be of interest.



*Without professional learning , there is no professional growth.*

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## Legislative Changes Update: Spring 2016

The Commission has been working on amending the provincial real estate legislation to allow for a self-regulated real estate industry. A draft of the proposed regulatory scheme was published on the Commission website for review by registrants and other stakeholders.

Industry members were invited to provide their comments in writing or by attending public meetings that were held in Saskatoon and Regina. The Association of Saskatchewan REALTORS®, the Saskatoon and Region Association of REALTORS® and the Association of Regina REALTORS® have assisted in this process by passing along comments they have received from their members and by conducting their own review of the proposed legislation.

We would like to thank industry members for their input and update everyone on the progress that has been made.

Several meetings have taken place to discuss the input received from industry stakeholders and finalize the suggested changes to the provincial real estate legislation. At this time, the Commission has nearly finished compiling the amendments that were suggested in the previous round of review. The Commission plans to provide a copy of a new draft of the proposed legislation to the industry for a final round of consultation.

Once the final consultation process is complete, the Commission will create a final draft of the proposed legislation to submit to the government for review. The goal is to have this final draft created and submitted to the government by the end of 2016.

The proposed legislation will be provided to the Financial and Consumer Affairs Authority (FCAA). We anticipate that the FCAA will conduct its own review of the legislation before sending the draft to the provincial Ministry of Justice for further consideration. It is possible that the Ministry of Justice will conduct its own consultation before beginning the process of drafting new legislation for presentation to the Legislature. The Legislative Assembly of Saskatchewan has produced a document outlining the Legislative Process by which laws are enacted in Saskatchewan. This document can be found here: <http://www.legassembly.sk.ca/about/legislative-process>.

### Important Note

Questions? Contact the Commission's Legal & Compliance department at [compliance@srec.ca](mailto:compliance@srec.ca), or call 306-374-5233.

## Annual Financial Reports

Bylaw 606 states:

*A brokerage shall complete and submit to the Commission, the "Annual Financial Report", in respect of the trust account, prior to March 15th in the year immediately following the calendar year for which the report is due.*

252 brokerages were expected to file reports for 2015. Of those, 221 filed on time, 24 filed late, subject to late filing fees, and 7 have not yet filed their returns.

All 31 brokerages that filed late or have not yet filed their Annual Financial Report, will have limitations and restrictions placed on their capabilities within the Commission's database. A **\$300 late filing penalty** will also apply.

## Registration Renewals

On Monday, May 16, 2016, the Commission's online system began accepting registration renewals for the 2016-17 registration year. We invite registrants to complete their renewals as soon as they can. All registrants who have already successfully completed The Real Estate Update 2015-2016 Continuing Professional Development (CPD) course are now eligible to renew their license for the next fiscal year.

All registrants are required to complete the annual CPD course prior to May 31st each year. Anyone who has not completed their CPD as of May 31 will not be allowed to renew their registration and **will not be registered to trade in real estate effective July 1.**

Additionally, those individuals will not be able to enroll for CPD until the Commission has received their written request for an extension. If permission is granted, registrants must then pay an **extension fee of \$300**. Once CPD has been completed and the extension fine paid, the registrant can then go online to renew their registration.

**Please contact Gail Armstrong, Registration & Office Administrator, at (306) 374-5233, ext 1, or [garmstrong@srec.ca](mailto:garmstrong@srec.ca) to process any payments owed.**

**The Commission accepts VISA and M/C, or cheques made payable to The Saskatchewan Real Estate Commission.**

## Commission Disciplinary Action

**Complete Commission hearing decisions can be found on our website through the links provided with each summary.**

**The Commission is also proud to promote our presence on CanLII, [here](#) (full coverage from 2014).**

**Lorna Pylychaty (branch manager), Re/Max Blue Chip Realty (former broker, Re/Max Progressive Realty)**

**Date of Decision:** April 13, 2016

**Violation:** Ms. Pylychaty was charged with professional misconduct contrary to:

- Commission Bylaw 727 by advertising a property for sale without written authorization from both the owners; and
- Section 58(4) of *The Real Estate Act* by failing to have both sellers sign a counter offer and amendment.

**Details:** Ms. Pylychaty represented the sellers. Seller A and Seller B, both owners on title, entered into an agency agreement with Ms. Pylychaty's brokerage. Seller A did not sign the Brokerage Contract or the attached MLS Data Input Form. The failure to obtain Seller A's signature on this document was an oversight.

An offer to purchase the property was received. Seller A and Seller B wrote a counter offer, but Seller A did not sign the document. An amendment to the contract of purchase and sale was completed, but Seller A did not sign the document. Seller A did not sign these documents because he was out in the field working. Ms. Pylychaty did review the documents with him over the phone and he verbally consented to the documents. They proceeded without Seller A's signature to expedite the paperwork.

**Disposition:** The Hearing Committee found Ms. Pylychaty guilty of the charges and ordered that:

- with respect to the breach of Bylaw 727, she should receive an order of reprimand and a \$1,000 fine; and
- with respect to the breach of section 58(4), she should receive an order of reprimand and a \$1,500 fine.

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Lorna Pylychaty dated April 13, 2016 can be viewed on the Commission website at:

<http://www.srec.ca/pdf/2013-07.pdf>.

## Did You Know?

The Saskatchewan Real Estate Commission is made up of 11 members, 6 of whom are elected by other registrants, (another 4 members are appointed by the Lieutenant Governor in Council, and 1 is appointed by the Commission and represents IC&I or property management).

Two member positions from Region One (Saskatoon) were up for election recently to take seats on the Commission effective July 1, 2016.

Several excellent nominees were presented and we would like to congratulate **Dave Hepburn** (North Ridge Realty Ltd.), and **Al Myers** (Colliers McClocklin), as the successful candidates, both serving for a second term.

Thank you to our nominees as well as those industry members who took the time to cast their vote!

**Steve Fenske (broker), Re/Max P.A. Realty****Date of Decision:** April 20, 2016

**Violation:** Mr. Fenske was charged with professional misconduct contrary to Commission Bylaw 701(a) by making or permitting to be made an offer to purchase that inaccurately identified him as the salesperson representing the buyer.

**Details:** A registrant working under Mr. Fenske's supervision was representing the buyers in a transaction. The registrant was only registered to trade in residential real estate.

After signing acceptance of the initial residential contract of purchase and sale, the sellers refused to sign an amendment to residential contract of purchase and sale, and instead requested a new farm contract of purchase and sale. The registrant consulted Mr. Fenske for advice on how to proceed with the transaction, given that the registrant was not registered to trade in farm real estate.

Mr. Fenske suggested that the farm offer be written with his name as sales representative, and he would supervise the registrant as the registrant conducted the trade. During the months of May and June, the registrant finalized the transaction by communicating with the buyers and the sellers' agents, and eventually completed the transaction and received full sales commission. Although Mr. Fenske was listed as the sales representative on the contract of purchase and sale, the registrant did everything that was necessary for the trade.

**Disposition:** The Hearing Committee found Mr. Fenske guilty of the charge and ordered that he receive a \$1,500 fine, an order of reprimand, and pay partial hearing costs of \$1,250.

The entire written decision of the Saskatchewan Real Estate Commission in the Matter of Steve Fenske dated April 20, 2016 can be viewed on the Commission website at :

<http://www.srec.ca/pdf/2014-44.pdf>.



## You Might be a Branch Office, If...

In recent weeks, the Commission has received many questions about when an office maintained by a registrant outside the main brokerage office is a “branch office”.

Section 30(2) of *The Real Estate Act* permits a brokerage to operate more than one office in Saskatchewan provided each additional office is managed by a branch manager who manages only one office. ***Branch offices must be registered with the Saskatchewan Real Estate Commission and there are regulations in place regarding the operation of a branch office.***

Not every office outside the main brokerage office will be a branch office under the *Act*. The current legislation does not include a definition of the term “branch office”, but the Commission considers the following questions when determining whether or not an office is a branch office:

- Do registrants use the office for the purpose of trading in real estate?
- Are members of the public invited to the office for the purpose of trading in real estate?
- Has signage been placed at the office or has a registrant created advertising for the office?

The purpose of these inquiries is to determine whether a member of the public would reasonably believe an office is affiliated with and managed by a particular brokerage. If the answer is “yes”, then that office is likely a branch office and must be registered with the Commission.

If you have questions about whether or not your office is a branch office, please contact Reché McKeague, Legal and Compliance Manager, or Nina Criddle, Compliance Officer.

If you believe your office is a branch office and you have questions about the branch office registration process, please contact Gail Armstrong, Registration & Office Administrator.

## Your Seller Makes a Counter Offer; Does She/He Sign the Schedule?

It is not an uncommon situation: a registrant is representing a seller and receives an offer to purchase accompanied by a schedule containing additional terms or conditions. The seller decides to write a counter offer to the buyer. The question arises: *does the seller have to sign the schedule?*

***The schedule does not have to be signed by the seller, as it forms part of the offer that is being countered.*** When making a counter offer, the seller does not sign the offer, so they do not sign the schedules. When a seller signs a counter offer, they agree to all terms and conditions, including those set out in the schedules, except for those changes indicated in the counter offer.

The Schedule “C”: Specified Terms for Contract of Purchase and Sale of a Condominium Unit differs slightly from other schedules because of the acknowledgement. The buyer will still sign the acknowledgement under item 1 to acknowledge receipt of the Estoppel Certificate, once received.

If the counter offer does not counter any of the terms or conditions in the attached schedule, the schedule could be signed by the sellers, but it does not have to be. *If the sellers choose to sign the schedule, they should not do so until after the counter offer has been accepted by the buyer.*

### Dates to Remember

**July 1—**  
Registration year begins

**October 1—**  
Annual release of CPD courses  
Semi-annual remittance of trust fund interest

**December 31—**  
Professional Corporation registration deadline

**March 15—**  
Annual Brokerage Financial Reports submission deadline

**April 1—**  
Semi-annual remittance of trust fund interest

**May 31—**  
CPD completion deadline

**June 30—**  
License renewal deadline

## Understanding Mandatory Education

In the real estate industry, jurisdictions across Canada have similar, yet different, requirements for mandatory education. While some jurisdictions offer pre-licensing education through a University or College, others have self-study or online learning modules. Some require multiple courses and a period of mentorship/internship, others require only a couple of courses and expect newly licensed professionals to stay up-to-date with current trends and learn on the job. Jurisdictions have changed their education and licensing models to either require specialty licenses with dedicated education, or a general license with a broad-based education.

Since 2012, Saskatchewan has mandated that in order to become licensed to trade in real estate, students need to follow a specific learning path leading to “generalized” licensing. It is now the requirement for everyone entering the real estate industry in Saskatchewan to decide on a career path: basic real estate or property management. Basic real estate necessitates training in all areas of residential, commercial and farm, and an individual course is offered for each.

The public expect real estate business professionals to be able to show, sell and trade in every area of real estate; most are not concerned with what an individual is “allowed” to do. There has been an increasing number of registrants attempting to trade in areas for which they have no licensing or training, which in turn increases the number of complaints filed and sanctions levied against Saskatchewan registrants.

### Common Questions & Answers:

*What of those registrants who entered the industry when “specialty” licensing was offered?*

Those registrants maintain their specialty registration and are restricted to trading in those areas for which they have successfully completed the mandatory education and registration. If a registrant wishes to upgrade to “general” licensing, he or she must successfully complete the required education modules and apply for licensing in those areas.

*Can registrants trade in an area for which they have not completed education?*

**No.** Trading in an area which you have not been educated and licensed is not permitted and will result in sanctions when reported. The Commission encourages registrants to report such instances for the protection of the public and the industry.

*Can registrants trade in an area for which their brokerage does not maintain a license?*

**No.** If a registrant successfully completes all areas of education and becomes licensed to trade in all specialty areas, but the brokerage the registrant joins is only licensed to trade in some of those areas, the registrant must restrict trading to those same areas.

*Can registrants trade in real estate in another province once registered in Saskatchewan?*

Regardless of what the educational path may look like, Canadian real estate regulators have agreed to reciprocity across all Canadian jurisdictions allowing similar training and skills to be applicable across provinces. Please contact the regulator in the province in which you wish to trade in order to become registered in that jurisdiction.

If you have any questions about education, please contact Susan McCrae, Education & Communications Coordinator.

# Professional Conduct

The Saskatchewan Real Estate Commission is responsible for ensuring the appropriate conduct of registrants. To this end, Part 7 of the Commission Bylaws, Conduct & Trade Practices, sets out the conduct that is expected of registrants as professionals. A registrant who fails to meet the expected standard may find himself or herself the subject of disciplinary proceedings conducted in accordance with the process set out in *The Real Estate Act*. A finding that a registrant has committed professional misconduct can lead to sanctions ranging from letters of reprimand to fines to cancellation of the registrant's certificate of registration.

Professional standards are generally accepted rules which guide professionals in practice. The Commission Bylaws reinforce these standards while protecting the public and industry members from those who would take advantage of others. Registrants help people make very important decisions about very important assets. As real estate is often the most expensive asset a person will ever own, transactions involving real estate can be both financially and emotionally stressful. Registrants occupy a position of trust with their clients and must take that responsibility seriously.

The preamble to Part 7 of the Commission Bylaws states quite clearly that it is the responsibility of all registrants to stay informed about the *Act*, its Regulations and the Bylaws, and registrants are expected to conduct business in accordance with the professional standards set out therein. Neither ignorance of the legislation nor a lack of experience on the part of the registrant excuses the failure to meet any of these standards.

**It is only through strict adherence to the high standards of professional conduct that individuals continue to enhance the profession and bolster public confidence in the skills and integrity of registrants.**



The Commission and staff appreciate everyone's patience as we dealt with repairs at our Robin Crescent office space, our temporary relocation downtown, which played havoc with our communications systems, and eventual move home, necessitating some initial downtime.

We are very pleased to be back to our regular operations! Our contact information and office hours remain the same.

*Please note that our office will be closed for the statutory holidays on Friday, July 1st and Monday, August 1st.*

#### Office Hours:

**Monday-Friday, 8:30am-noon, 1pm-4:30pm**  
**Closed weekends and holidays.**

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***May 31st is almost here!!!***

***CPD 2015/16***

**Take it online today:**

**[www.saskatchewanrealestate.com](http://www.saskatchewanrealestate.com)**

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## Contact Us

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## Commission Members

Trevor Koot, Chair, Swift Current

Paul Jaspar, Vice Chair, Saskatoon

David Chow, Moose Jaw

Mike Duggleby, Regina

Dave Hepburn, Saskatoon

Murray Lang, Regina

Jeff Markewich, Moose Jaw

Vern McClelland, Lloydminster

Al Myers, Saskatoon

Tim Ward, Saskatoon

Bernie Weinbender, Regina