

PROFESSIONAL MATTERS

WEBINAR SERIES

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Rental and Trading Services

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LEARNING OBJECTIVES

1 UNDERSTANDING THE
DEFINITIONS IN RESA

2 SERVICES TRADING
LICENSEES CAN PROVIDE

3 SERVICES RENTAL
PROPERTY LICENSEES
CAN PROVIDE

4 BROKERAGE
REQUIREMENTS



A REVIEW OF DEFINITIONS IN RESA

A Trade in Real Estate

"trade in real estate" means

- a) a transaction for the purchase or sale of real estate, for the leasing of real estate or for any other form of acquisition or disposition of real estate,
- b) an assignment of a contract for purchase, sale or lease of real estate, or a transaction in relation to such an assignment, or
- c) a prospective trade in real estate within the meaning of paragraph (a) or (b);

Trading Services

"Trading services" means any of the following services provided to or on behalf of a party to a trade in real estate:

- a) advising on the appropriate price for the real estate;
 - b) making representations about the real estate;
 - c) finding the real estate for a party to acquire;
 - d) finding a party to acquire the real estate;
 - e) showing the real estate;
 - f) negotiating the price of the real estate or the terms of the trade in real estate;
 - g) presenting offers to dispose of or acquire the real estate;
 - h) receiving deposit money paid in respect of the real estate
- but does not include an activity excluded by regulation;

Rental Property Management Services

"rental property management services" means any of the following services provided to or on behalf of an owner of rental real estate:

- a) trading services in relation to the rental of the real estate;
- b) collecting rents or security deposits for the use of the real estate;
- c) managing the real estate on behalf of the owner by
- d) making payments to third parties,
- e) negotiating or entering into contracts,
- f) supervising employees or contractors hired or engaged by the owner, or
- g) managing landlord and tenant matters

but does not include an activity excluded by regulation;



**SERVICES YOU CAN
– AND CANNOT –
PROVIDE**

Can I help a landlord find tenants?



Yes! You can:

- ✓ Advertise the rental property
- ✓ Show the rental property
- ✓ Receive tenant applications
- ✓ Short-list the applicants
- ✓ Prepare the lease or tenancy agreement on behalf of the owner
- ✓ Negotiate the rent and the terms of the lease or tenancy agreement
- ✓ Collect the tenant's signature on the lease or tenancy agreement

Can I help a landlord find tenants?



Yes! You can:

- ✓ Advertise the rental property
- ✓ Show the rental property
- ✓ Receive tenant applications and shortlist applicants
- ✓ Prepare the lease or tenancy agreement on behalf of the owner
- ✓ Negotiate the rent and the terms of the lease or tenancy agreement
- ✓ Collect the tenants signature on the lease or tenancy agreement

Can I help a prospective tenant find a property to rent?



No! Here's why not:

"rental property management services" means any of the following services provided to or on behalf of **an owner** of rental real estate:

- a) trading services in relation to the rental of the real estate;

Can I help a prospective tenant find a property to rent?



Yes! You can:

- ✓ Show the rental property
- ✓ Prepare the lease or tenancy agreement on behalf of the tenant
- ✓ Negotiate the rent and the terms of the lease or tenancy agreement
- ✓ Collect the tenants signature on the lease or tenancy agreement
- ✓ Present the offer to rent the rental property

Can I collect rents from tenants on behalf of a property owner?



Yes! Here's why:

"rental property management services" means any of the following services provided to or on behalf of an owner of rental real estate:

(b) collecting rents or security deposits for the use of the real estate;

Can I collect rents from tenants on behalf of a property owner?



No! Here's why not:

The definition of "trading services" does not include collecting rents

Can I collect security deposits from tenants on behalf of a property owner?



Yes! Here's why:

"**trading services**" means any of the following services provided to or on behalf of a party to a trade in real estate:

- a) receiving deposit money paid in respect of the real estate

Can I collect security deposits from tenants on behalf of a property owner?



Yes! Here's why:

"rental property management services" means any of the following services provided to or on behalf of an owner of rental real estate:

- a) collecting rents or security deposits for the use of the real estate;

Can I make payments on behalf of the property owner to third parties?



No! Here's why not:

The definition of "trading services" does not include making payments on behalf of the property owner to third parties

Can I make payments on behalf of the property owner to third parties?



Yes! Here's why:

"rental property management services" means any of the following services provided to or on behalf of an owner of rental real estate:

- a) managing the real estate on behalf of the owner by
- b) making payments to third parties,

You can:

- ✓ pay contractors for providing services to or on behalf of the property owner.

Can I negotiate or enter into contracts on behalf of the owner?



No! Here's why not

- with the limited exception of being permitted to negotiate the tenancy agreement / lease
- This means you cannot conduct a move-in inspection report
- This means you cannot sign the tenancy agreement

Can I negotiate or enter into contracts on behalf of the owner?



Yes! Here's why:

"rental property management services" means any of the following services provided to or on behalf of an owner of rental real estate:

- a) managing the real estate on behalf of the owner by
- b) negotiating or entering into contracts,

Can I negotiate or enter into contracts on behalf of the owner?



You Can:

- ✓ Sign the tenancy agreement or lease on behalf of the owner of the rental property
- ✓ Carry out Condition Inspection Reports (move-in / move out inspections)
- ✓ Arrange contractors to provide services to or on behalf of the owner

Can I supervise employees or contractors hired by the owner?



No! Here's why not:

The definition of "trading services" does not include supervising employees or contractors hired or engaged by the owner

Can I supervise employees or contractors hired by the owner?



Yes! Here's why:

"rental property management services" means any of the following services provided to or on behalf of an owner of rental real estate:

- a) managing the real estate on behalf of the owner by
- b) supervising employees or contractors hired or engaged by the owner,

Can I supervise employees or contractors hired by the owner?



You Can:

Supervise caretakers and other employees or contractors tasked with providing services to owners of rental property.

Can I manage landlord and tenant matters?



No! Here's why not:

The definition of "trading services" does not include managing landlord tenant matters

Can I manage landlord and tenant matters?



Yes! Here's why:

"rental property management services" means any of the following services provided to or on behalf of an owner of rental real estate:

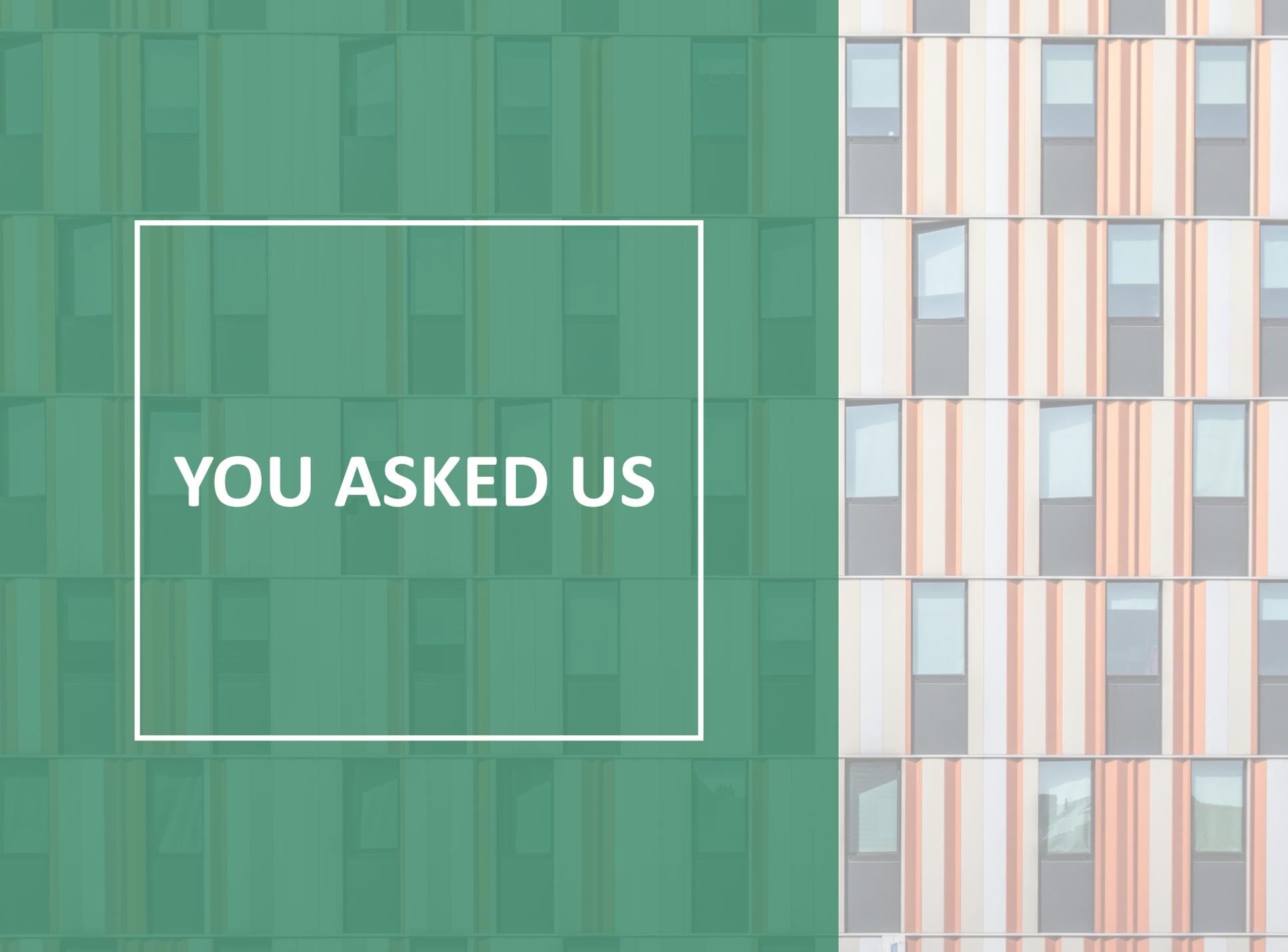
- a) managing the real estate on behalf of the owner by
- b) managing landlord and tenant matters.

Can I manage landlord and tenant matters?



You Can:

- ✓ Provide any statutory notices as required by the Residential Tenancy Act
- ✓ Provide all ongoing management of the property or the tenant/owner relationship
- ✓ Provide ongoing communication between the tenant and the owner; including being the contact for the tenant to call in the event of issues surrounding the tenancy/lease of the rental property.



YOU ASKED US

Are licensees required to make 5-10 and 5-10.1 disclosures to prospective tenants?



Yes. Here's why:

- ✓ Before providing trading services, a licensee must disclose whether or not the licensee will represent the party as a client (5-10)
- ✓ A licensee who makes a 5-10 disclosure to an unrepresented party while representing a client to that trade, must also make the required disclosure regarding the risks of being unrepresented (5-10.1)

Can a managing broker choose not to allow rental listings?



Yes. Here's why:

The managing broker is responsible to ensure that the business of the brokerage is carried out competently and in accordance with the Act, regulations, rules and bylaws, and that there is adequate supervision for associate brokers, representatives and unlicensed employees.

Is a managing broker responsible for rental listings posted by licensees on MLS or Craigslist?



Yes! Here's why:

- ✓ Managing brokers are responsible to provide oversight and supervision at the brokerage.
- ✓ They would be responsible for rental listings - on any platform - to the same degree that they are responsible for listings for property for sale.

Does the brokerage need a service agreement to list a rental property?



Yes! Here's why:

- ✓ Brokerages must comply with 5-1 of the Rules.
- ✓ A written service agreement is required, unless waived by the client.

Do RECBC's advertising requirements apply to rental listings?



Yes!

RECBC's advertising requirements apply to all forms of advertising by real estate licensees – whether in trading services, rental property management, or strata management services

Can a trading services licensee do a credit or background check of a prospective tenant for an owner?



Yes!

- ✓ Do not collect any information that is inappropriate or illegal to be collected.
- ✓ Licensees must comply with the Personal Information and Protection Act (PIPA).
- ✓ Review the Privacy Commissioner's Guideline for "Private Sector Landlords and Tenants"

Do I have an obligation to disclose a material latent defect in a rental property?



Yes!

- ✓ 5-13 of the Rules applies to trading services and rental property management.
- ✓ You must disclose a known material latent defect to tenants before entering into tenancy agreement or lease.
- ✓ Unauthorized suites or unpermitted renovations are material latent defects that must be disclosed.

What is the brokerage's obligation regarding collecting security deposits?



Brokerage policy recommended on how or if deposits will be collected and dispersed

- Brokerage must comply with Section 27 of RESA – Payment into Trust Account
- Security / pet damage deposits are not held as “Stakeholder” funds – Section 28(3) of RESA



QUESTIONS AND ANSWERS

Questions can be submitted through the “Ask a Question” function.

**THANK YOU
FOR ATTENDING!**

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Questions?

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