

ENHANCING PROTECTION FOR REAL ESTATE CONSUMERS IN BC

*Second Progress Report on Recommendations from the Independent Advisory Group on Conduct
and Practices in the Real Estate Industry in BC*

DECEMBER 2017 | REPORT TO THE MINISTER OF FINANCE

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This report and other information for the public and real estate licensees about real estate regulation in BC is available on our website:

www.recbc.ca

LETTER FROM THE CHAIR

The Honourable Carole James

Minister of Finance

Province of British Columbia

Parliament Buildings

Victoria, British Columbia

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Dear Minister James,

I am pleased to be sending you the second report from the Real Estate Council of British Columbia on the progress of our implementation of the recommendations made by the Independent Advisory Group (IAG) on Conduct and Practices in the Real Estate Industry in BC. This report covers the six month period from March 31, 2017 to September 30, 2017.

In that time, we have accomplished significant milestones towards the IAG's goal of enhancing protection for real estate consumers in British Columbia. The Council is committed to the thorough implementation of all IAG recommendations that are within our power to effect, and to supporting Government and the Superintendent of Real Estate with those that will require legislative or Rule amendments.

Recognizing that meaningful change to increase consumer protection requires the investment of time, resources and energy, we are also engaged in examining our organizational, regulatory and governance processes to enhance our efficiency and effectiveness, including:

- **Further expanding the Council's investigative capacity.** In fiscal year 2016/17 the Council opened a record 902 investigations. We are recruiting additional qualified, experienced investigators to ensure that complaints are handled in a thorough and timely way.
- **Investing in technology and business process improvements.** Systems improvements and streamlining business processes will be key to increasing the Council's efficiency and effectiveness over the coming years.
- **Planning for the future.** In the summer of 2017 the Council began the development of a new three-year strategic plan that will guide the organization as it continues to evolve in order to protect the public interest and modernize the regulation of real estate licensees.

As the Chair of the Council, I am proud of the work that has taken place over the past six months. The Council's first priority continues to be ensuring that the IAG recommendations are implemented in a timely and effective manner. We are working hard to ensure that all consumers can have confidence in the knowledge, skills and professionalism of BC's real estate licensees, and in the regulatory system and standards that protect their interests in real estate transactions.

I look forward to submitting a further progress report to you in the spring of 2018 on the continuing transformation of real estate regulation in BC.



Respectfully submitted,

Robert Holmes, Q.C.

Chair, Real Estate Council of BC

Vancouver, British Columbia

December 2017

PROGRESS REPORT HIGHLIGHTS

The Council has taken significant steps in responding to the recommendations of the IAG Report.

Between March 31 and September 30, 2017, new actions by the Council include:

IAG #25

Undertaking a comprehensive review of licensing education and testing requirements. The Council published a Request for Proposals in July 2017, and selected a proponent to undertake an audit and environmental scan of its licensing education (including pre-licensing and mandatory relicensing courses) and assessment requirements. The review, scheduled for completion in April 2018, will identify areas the Council can strengthen or enhance in order to raise standards and promote professionalism.

Raising entry standards by introducing a more comprehensive standard of English Language Proficiency applicable to all real estate licensing course students. Before becoming eligible to write a licensing examination, students must demonstrate their competence at reading, writing, speaking and listening in English by achieving a level 7 on the four components of the Canadian English Language Proficiency Index Program – General (CELP) test. This requirement came into effect on September 1, 2017.

IAG #28

Increasing public education and awareness efforts. Following a successful grant application process, the Council has secured \$250,000 in matching funding over three years from the Real Estate Foundation of BC for the development and implementation of a multi-year consumer education campaign. Goals of the campaign include increasing public awareness and ensuring that consumers have access to information to support them in making informed decisions about real estate transactions.

IAG #18

Continuing to increase the transparency of disciplinary processes and the outcomes by:

- Approving the publication of Qualification and Compensation hearing decisions, including decisions from the past five years, on the Council's website.
- Approving the publication of anonymized summaries of administrative penalty cases, including the reasons why an administrative penalty was appropriate and the amount imposed.
- Introducing an abeyance policy to allow Council processes to be held in abeyance until parallel proceedings in another forum (such as a criminal or civil trial) on the matter are completed.

BACKGROUND

In February 2016, the Council initiated an Independent Advisory Group (IAG) to review the regulatory framework for real estate in BC and make recommendations to enhance consumer protection. On June 28, 2016 the IAG submitted its final report, with 28 recommendations focused on improving the regulatory regime and increasing the Council's ability to protect the public interest.

In July 2016, Government passed amendments to the Real Estate Services Act, changing the governance structure of the Council, increasing penalties for misconduct, transferring rule-making authority to the Superintendent of Real Estate and increasing the oversight and authority of the Superintendent over the Council. The amendments made by Government also addressed a number of the IAG recommendations requiring legislative change, including increases in discipline penalties and the disgorgement of profits of misconduct.

These amendments came into effect on September 30, 2016 and governance of the Council was transferred to a new Council of publicly-appointed members with a mandate to increase consumer protection and implement the IAG's recommendations.

The 2016 amendments to the Real Estate Services Act removed jurisdiction from Council to make new rules or amend or repeal old ones. Instead, that jurisdiction was transferred to the Superintendent of Real Estate. The Real Estate Council continues to have jurisdiction to apply and enforce the rules. As such, all nine IAG recommendations that involve the development and implementation of new rules to regulate licensee conduct (recommendations 1, 2, 3, 4, 7, 8, 9, 11 and 22) must await action from the Superintendent before Council can implement them.

The Council continues to have jurisdiction over the implementation of recommendations 5, 12, 13, 14, 15, 18, 25, 27 and 28.

In June 2017, the Council submitted its first report to Government on the progress of the implementation of the recommendations, covering the nine months from June 2016 to March 2017. The report was published in August 2017 and is available on the Council's website.

ACTIONS TO ADDRESS THE RECOMMENDATIONS

MARCH 31 – SEPTEMBER 30, 2017

This report describes the actions that were completed or initiated during the period March 31 – September 30, 2017, in response to the nine IAG recommendations for which the Real Estate Council has primary responsibility. In reporting on progress, the following definitions are used:

- **COMPLETE:** Action to implement the recommendation is substantially complete.
- **UNDERWAY:** Action has been established and will be progressively implemented. Further work is required before implementation can be completed.
- **TO BE INITIATED:** The recommendation requires additional resources before implementation can begin.

TRANSPARENCY AND ETHICS

RECOMMENDATION	ACTION
<p>5 The Real Estate Council focus more attention on the forms and contracts used by licensees, to ensure they reflect an appropriate emphasis on consumer protection and the public interest.</p>	<p>UNDERWAY New consumer forms are in development, to be introduced when new Rules come into effect in March 2018.</p> <p>UNDERWAY Council has initiated a comprehensive review of forms in use by licensees.</p>
<p>5a The Real Estate Council closely monitor consumer protection issues that may arise from the standard form contract of purchase and sale including the recent changes prescribed by Government.</p>	<p>UNDERWAY Through the development of a new reporting framework for internal brokerage audit and compliance operations, Council will increase the early identification of risk factors.</p>

COMPLIANCE AND CONSEQUENCES

RECOMMENDATION	ACTION
<p>12 The Real Estate Council implement confidential reporting channels (for example, reporting hotlines or whistle-blower programs) for industry and the public, to facilitate reporting of licensee misconduct.</p>	<p>UNDERWAY Development of secure online reporting forms, internal policies and processes to enable anonymous reporting by industry members and consumers.</p> <p>UNDERWAY Development of market research and industry consultation mechanisms to identify potential reporting barriers.</p>
<p>13 The Real Estate Council use existing regulatory powers to encourage licensee compliance with all rules that govern their conduct, including those of other legal and regulatory regimes.</p>	<p>UNDERWAY Council is negotiating information-sharing agreements with other regulatory bodies and law enforcement agencies, to increase its ability to address licensee misconduct.</p>
<p>14 The Real Estate Council increase its proactive detection and deterrence efforts for licensees who engage in, aid, or abet aggressive marketing and sales practices that target vulnerable members of the public.</p>	<p>UNDERWAY Legal and policy work has been initiated to expand Council's ability to address aggressive marketing practices.</p>
<p>15 The Real Estate Council increase the focus on licensee conduct examinations in its brokerage auditing program.</p>	<p>UNDERWAY New risk analysis tools are in development that will increase the ability of Council auditors to identify significant risk factors during brokerage examinations.</p>
<p>18 The Real Estate Council improve the transparency of its complaints and disciplinary process, and the resulting outcomes.</p>	<p>UNDERWAY Publication of Qualification and Compensation hearing decisions on the Council's website, including decisions from the past five years.</p> <p>UNDERWAY Publication of anonymized summaries of administrative penalty cases, including the reasons why an administrative penalty was appropriate and the amount imposed approved.</p> <p>COMPLETE Abeyance policy introduced, to allow Council processes to be held in abeyance until parallel proceedings in another forum (such as a criminal or civil trial) on the matter are completed.</p>

LICENSEE AND PUBLIC EDUCATION

RECOMMENDATION	ACTION
<p>25 The Real Estate Council undertake a comprehensive review of licensing education and testing requirements to raise entry standards.</p>	<p>UNDERWAY First phase of licensing education review initiated, with final report anticipated March 30, 2018.</p> <p>COMPLETE Implementation of a more comprehensive English language proficiency standard required for new licensees, effective September 1, 2017.</p>
<p>27 The Real Estate Council make its complaints process more publicly accessible and easier to navigate.</p>	<p>UNDERWAY Initiating evaluation of user satisfaction levels, timeliness, and effectiveness of communications regarding compliance and investigative processes</p>
<p>28 The Real Estate Council significantly increase and improve its public education and awareness efforts.</p>	<p>UNDERWAY Development of market research studies to measure current levels of public awareness of the regulation of real estate.</p> <p>COMPLETE Council received generous funding support from the Real Estate Foundation of BC for the development and implementation of a multi-year consumer education campaign.</p> <p>COMPLETE Council has increased staffing and resource allocation to expand consumer information and public outreach.</p>