

Members of the Legislative Assembly of British Columbia

Real Estate Council of British Columbia &  
British Columbia Real Estate Association

Dear Sirs/Madams;

I am writing to you today to express my concerns with the new rules that that Superintendent of Real Estate is imposing on the way Realtors are required to represent their clients.

I have been a Realtor in the Province of British Columbia for over 17 years and I currently hold my Brokers license and own my own Real Estate Brokerage. These new rules make it impossible for “ethical” Licensees to perform their duties and uphold their reputations and work within the rules that the Superintendent of Real Estate is now imposing upon us on March 15, 2018. Not only that, but these rules take away the publics right to choose who they want as their representative in the transaction of buying or selling Real Estate.

I have heard from my own clients how unfair and unjust that is. If a Seller/Buyer have been properly advised and mutually agree and consent, there should not be an issue. I believe you are taking away a fundamental freedom and right of the public.

My opinion is that the Superintendents office and Advisory Committee failed to understand how this profession works.

It is also my opinion that while we have amazing people working tirelessly at the Real Estate Council it is obvious that there are not enough staff and resources to properly oversee the industry. I also believe that if RECBC and the Real Estate Boards had properly stepped up and dealt with the small percentage of “bad” Realtors and the Real Estate Brokerage that these complaints stemmed from when the “shadow flipping” news broke in 2016, we probably wouldn’t be seeing these drastic uninformed changes today. Not enough was done to manage and deal with these complaints. I understand there was a lot of evidence given from the public and the media (including photographs) and the only thing that was done were new Managers appointed by RECBC and placed into the alleged offending brokerage to oversee it. I have not seen any discipline cases on the

RECBC site with respect to the many complaints received. If there was more done, the public should have been advised that RECBC and the RE Boards are taking this seriously and this is what has been done. In my opinion from what I have read some of this was fraud which included forging signatures. These Realtors, Brokerages and Brokers should have had their Real Estate licenses revoked.

The Superintendents office should be starting at the top. They should be looking at how RECBC is handling these complaints, some complaints take months if not years to come to a hearing. This is not acceptable. I will give you an example. In 2014 a real estate brokerage by the name of 8<sup>th</sup> Avenue Elite Real Estate shut down and it was alleged that the owners took off with the trust funds. The licenses were suspended. Nothing more was heard about this until last fall when on the RECBC website under "Upcoming Hearings" there was a hearing date set for December 28, 2017 for the owners of that brokerage. Then this hearing disappeared. I had been following it to find out what was happening. The upcoming hearing, I assume did not happen? These optics look bad to the public and to the Profession. The Real Estate Council needs to be more transparent. The Superintendent's office also should be looking at the education requirements, the language proficiency requirements, the licensing procedures, discipline procedures and so on. All of these things should have been reviewed and revamped. I feel what is happening now is a knee jerk reaction without understanding how many of the ethical and professional Realtors perform their duties and represent their clients. What amazes me, and I deal with this in my area everyday how some licensees have gotten their Real Estate licenses. I find that their understanding of the English language both written and spoken, their understanding of the Rules both set out by RECBC and the RE Boards is lacking. Some have no clue. How did they pass the Real Estate Course Exam, the Post Licensing Course and the language proficiency exam?

We currently have very clear rules on Dual Agency and Disclosure Requirements. We have over 20,000 Realtors in the Province of British Columbia and there is a very small percentage of the Realtors that have caused the problems we are faced with today. What makes RECBC think that this small percentage of Realtors will follow the new rules let alone understand them. The way they are written and the FAQ's posted on the RECBC site are difficult for most of us to understand. Some of these examples on the FAQ's have me shaking my head, you are setting up

good ethical and professional Realtors to fail and break your rules. Why not deal with the Realtors that have caused us to get to this point?

While I agree in principal with the new Disclosure of Remuneration rule, it is a duplication of what we already do. It makes me wonder if the Superintendents office has read a Multiple Listing Contract or even shadowed a Realtor in their daily lives. How can changes be made without understanding exactly what and how these contracts are entered. I agree that disclosure is critical and those who are not providing adequate disclosure need to be dealt with.

When we enter into a Multiple Listing Contract we already disclose what the commission amount is that the Seller is contractually obligated to pay. It further breaks down the % that the cooperating (Selling if there is one) brokerage will get paid. I can not remember the last time that a Seller has not asked me what they will get at the end of the day if they accept an offer. This is redundant and in the day of multiple offers sometime up to 40 offers a form to disclose is now going to be required to be completed for each offer prior to the Seller accepting the offer. Some offers are time sensitive, some Sellers off shore or not present when offers are being submitted.

The end to Dual Agency does have some merit. BUT on occasion it is impractical. Many Realtors do a good job of explaining to their clients how this works. Buyer and Sellers both need to agree in writing (Limited Dual Agency Form) that this can happen BEFORE the Seller receives the Contract of Purchase and Sale (offer) on their property. If the Seller does not consent to this, the Realtor can not represent the Buyer and can not proceed with presenting the offer to the Seller.

On occasion buyers don't want any representation from a Realtor at all. Some buyers are sophisticated in the process of Buying and Selling. Under the new rules this will still be allowed and in the Superintendents own words "until it happens too often, we will shut that down as well".

With the changes to Dual Agency there are issues that are arising with how a Realtor can represent a Buyer and Seller. For example;

I have just listed a property for sale and hold an open house, one of my previous clients comes into the home and wants to buy it. Under the new rules I must cancel the listing with the Seller and tell them to get another Realtor and I can't work with my previous client to purchase the home I have to tell them to get

another Realtor. This to me seems unfair to both of my clients. This has taken away both Buyer & Sellers right to choose who they want to work with. Many Realtors create a good working and personal relationship with their clients, now we are expected to tell them... sorry you can't work with who you want or trust... please go find someone else.

Here is the problem I see with this is that the Seller now must scramble and find another Realtor to work with, break a legally binding contract with the current Realtor and must start the entire process of a new listing, new photos, new Realtor. Thus, resulting in a delay in selling their home. The Buyer who has worked with the Realtor in the past now has to go find another Realtor to help buy the home that is off the market and not back on for a week or so. This is logistically impractical. Even if a Brokerage were to appoint another Designated Agent within the Brokerage to deal with the listing you are now creating a situation whereby this new Designated Agent must be informed and "know what they are listing or a Designated Agent for" They need to inform themselves about the property they are representing, material latent defects, get to know the Seller they are representing and so on. What happens if this offer does not get accepted and another Buyer client of the original listing agent and a friend or past client of the new Designated Agents comes along and wants to buy the home, the Brokerage then must assign a completely different Designated Agent to the listing and the same process begins again. This is totally impractical. What if ... This is at 8 pm how do you propose the Broker assign a new Designated Agent, that agent get brought up to speed so they know what they are selling (the listing) so that they are in compliance with Council and RE Board rules about knowing your listing? This would cause a delay in the selling of properties. Would the Realtors be working in the best interest of a ready willing and able Seller or Buyer...? No this would create an absolute mess in the process. Thus, leaving the public consumer that we are bound by a duty to protect and work in their best interest with the impression that we are screwing with them. A lot of offers are often time sensitive.

The other issue happens when your Realtor has listed your property for sale. You are lucky to receive multiple offers on your property, BUT one of those offers is written by someone that your listing Realtor had dealt with in the past, they now have a new Realtor they are working with. In most cases you have no idea who the Buyers are until the offer presentation which traditionally happens in the

evening. According to the new rules the listing Realtor can not represent the Seller in this sale. The Realtor would have to stop the process call their Manager who would then have to appoint someone from their office to represent the Seller. This could delay time sensitive offers, the Seller could loose Buyers because they don't want to wait and so on ..... See the problem?

Another scenario to consider:

Realtors have spent thousands of dollars and many years creating a database of clients with requirement for properties they are searching for. When Realtors go on a listing presentation a big thing to a Seller and a question I hear often is "do you have a data base of clients that would be interested in my home?" We now under these new rules may as well throw the database out as it has no more value. We now must tell our Sellers... Yes, but I can't share your listing with my clients because if I did and they wanted to buy I would have to remove myself as your Designated Agent and the Buyers Designated Agent and I can't sell your property.

The one major consideration that the Superintendents office has failed to advise on is with respect to Developments and the sale and marketing of those properties. Many developers don't use licensed Realtors to sell developments. I would suspect that over 75% of developments are sold by the Developers salespeople (unlicensed). Will those salespeople have to refrain from writing a contract for both the developer and the buyer? If not, I ask what the difference is between a Licenced Realtor representing the Buyer & Seller and a salesperson from a Development representing the Buyer & Seller?

The new rules will make it more difficult for a Seller to sell their home and a Buyer to purchase a property with their choice of Realtor.

Many Realtors I have dealt with over the years care a great deal about their clients first and not about the commission, they pride themselves on a job well done.

The implementation of these unrealistic rules will cause a backload of complaints and issues as honest Realtors try to deal with them under unreasonable terms. The "bad" apples will continue to find a way around these rules as they do now. It is up to the Brokerages and other Realtors to report these issues to the

Real Estate Council and the Real Estate Boards and for those organizations to deal with them in a proficient and speedy manner.

Regards,

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