

The Nova Scotia Real Estate Commission is the regulator of the real estate industry in Nova Scotia.

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ENSURING CONSUMER  
CONFIDENCE THROUGH  
REAL ESTATE REGULATION

**Released:** Friday, Oct 13th, 2017

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## **Brokerage Records and Production Policy**

At the September Board of Directors meeting, the Board approved a new Brokerage Records and Production Policy and also approved the associated Bylaw changes to support the Policy.

The new policy replaces the Electronic Storage Policy and it documents the storage and production of real estate and trust account records in paper and electronic format, including:

- Storage duration and format
- Organization of files
- Organization and legibility of records
- Repercussions of careless or haphazard records storage
- File security

Click [here](#) to view the new Brokerage Records and Production Policy.

The associated Bylaw changes, with the revisions shown in bold text, are as follows:

### **308**

(a) Brokerages are required to maintain a service address in the province of Nova Scotia.

**(b) Brokerages must maintain their paper records in Nova Scotia and if not stored at the brokerage office(s), the broker must notify the Commission of the storage location.**

### **409**

**(e) When a broker fails to comply with the Brokerage Records Storage and Production Policy, the Commission, at the discretion of the Registrar, may issue an administrative penalty. The penalty may be of an amount up to and including the annual brokerage audit fee set out in Bylaw 403.**

### **618**

All **real estate trade and trust account records** shall be maintained **in accordance with the Commission's Records Storage and Production Policy.**

### **619**

(a) **Repealed.**

### **704**

A broker or managing associate broker shall be responsible for:

(d) ensuring the required trust accounts, trust account records and transaction files are maintained in accordance with the Act, the Regulations, the Bylaw and the **Commission's** Policies;

Translate ▼

documents, etc. that pertain to any real estate transaction and to have the information readily available as may be required by the Commission from time to time. Requests shall be in writing from the Commission **and shall specify the format in which records are to be produced.** This includes, but is not limited to, transaction files, trust records and employment records.

### 707

It is the responsibility of the broker to keep **real estate trade and trust account records** for a seven (7) year period.

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### Office Closure: Staff Function

Our office will be closed on Tuesday, October 17, from noon-1 p.m. for a staff function. If your matter is urgent or you require assistance during this closure, please contact Brad Chisholm at [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca).

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**Released:** Friday, Oct 06th, 2017

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## Office Closure—Thanksgiving



Our office will be **closed** on Monday, October 9, for the Thanksgiving holiday.

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## Taking Videos of a Seller's Property

There have been a few incidents brought to the Commission's attention about licensees and potential buyers recording video of a seller's property without their consent.

The seller's consent **must** be obtained prior to recording a video of a seller's

property. The Commission recommends that the seller's consent is obtained in writing.

If you have questions regarding this matter, email Carolin MacDonald, Compliance Manager, at [cmacdonald@nsrec.ns.ca](mailto:cmacdonald@nsrec.ns.ca).

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## **New Compliance Inspector**

The Commission is pleased to announce the hiring of Carolyn Weaver as Compliance Inspector.

Welcome to the team, Carolyn!

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**Released:** Tuesday, Aug 29th, 2017

## Office Closure Notice: Labour Day



**The Commission's office will be **closed** on Monday, September 4th, for the statutory holiday.**

Our commissioners and staff wish licensees a safe and enjoyable Labour Day weekend.



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**Released:** Friday, Aug 04th, 2017

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### Office Closure Notice: Natal Day



The Commission's office will be **closed** on Monday, August 7th, for the Natal Day holiday.

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### New Discipline Newsletter

The Commission has released its August Discipline Newsletter.

[Read More](#)

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### Forms Focus Groups

The Forms Committee would like to thank the volunteers who participated in this round of focus groups. We gathered insightful feedback that will be used to enhance the clarity and functionality of the revised forms.

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**RELEASED:** 13/07/17

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## **Unlicensed Assistant Duties—Updated Policy**

The Board of Directors reviewed and approved the Licensing Committee's recommendation to revise the Commission Policy on the duties of unlicensed assistants.

The revised policy allows unlicensed assistants to communicate the information on the client view of a listing cut to consumers.

Now when a consumer calls a brokerage to ask for information about a particular property that they saw advertised, an unlicensed assistant/employee may recite the information contained on the client view of an MLS® listing cut. Previously, unlicensed assistants/employees were not allowed to respond to advertising questions from the public and would have had to direct these calls to a licensee.

Should a consumer request information about a property beyond what is on the listing cut, or for real estate advice or opinions, the unlicensed assistant/employee then needs to direct the call to a licensee.

[Read More](#)

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## **Employment Opportunity—Compliance Auditor**



Qualified applicants should send their cover letter and résumé to [cmacdonald@nsrec.ns.ca](mailto:cmacdonald@nsrec.ns.ca) by **4:00 p.m. on Friday, July 21, 2017**.

[Read More](#)

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## Fire Ants—What You Need to Know

The Commission has recently received inquiries about fire ants. The Commission recommends that licensees advise their clients to discuss any possible infestation, including fire ants, with legal counsel to determine whether disclosures need to be made.

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## Recent Sharable Content

[Terminating an agreement with out clauses](#) - April 5, 2017

[Buying your first home takes more than a bit of luck](#) - March 17, 2017

[What to do when you receive an erroneous offer](#) - March 13, 2017

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**Released:** Friday, Jun 30th, 2017

## Office Closure Notice: Canada Day



**The Commission's office will be **closed** on Monday, July 3rd, in lieu of Canada Day.**

Our commissioners and staff wish licensees a safe and enjoyable holiday.



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Released: 05/06/2017

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## Continuing Professional Education (CPE) Reminder

If you have not already completed your CPE for the 2016-2017 licensing cycle, it is important you do so by June 15th. Failing to complete CPE prior to the deadline will result in your licence not being renewed.

[See Continuing Professional Education requirements for 2016/17](#)

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## CPE Course Announced for the 2017-2018 Licensing Cycle

At the last Liaison Committee meeting, the NSAR mandatory course, *Advertising in the Digital Age*, was suggested as possible NSREC mandatory course for next year's licensing cycle (July 2017–June 2018). The Committee, which is made up of board members from both the NSAR and the NSREC, felt that the course would give the NSAR and the NSREC an opportunity to collaborate to the benefit of the industry.

The course was put forward to the Licensing Committee at their June 1<sup>st</sup> meeting along with a number of proposed revisions to make the course comply with requirements of an NSREC-approved mandatory.

The Licensing Committee approved the course, subject to the revisions, as a mandatory course for all licensees for the 2017-2018 licensing cycle. The most recently scheduled *Advertising in the Digital Age* courses have been cancelled to permit the course to be updated. Once the course is updated, courses will resume.

As the NSREC mandatory courses are developed in the summer and the requirements announced in early fall, if there are additional course requirements, those requirements will be announced as usual this fall.

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RELEASED: 30/05/17

## Licence Renewal Information

For questions regarding the renewal process, contact Pam Crane, Licensing Officer, at 902-468-3511 x304/800-390-1015 x304 or via email at [pcrane@nsrec.ns.ca](mailto:pcrane@nsrec.ns.ca).

### Continuing Professional Education

In accordance with Bylaw 323(a), Continuing Professional Education (CPE) requirements must be completed by June 15th to process your renewal. Failing to complete CPE prior to the deadline will result in your licence not being renewed.

Licensees failing to have their licence renewed due to incomplete CPE requirements will have their name published per Bylaw 839(c), unless they are granted a licence extension or choose to terminate their licence by June 30th.

[See Continuing Professional Education requirements for 2016/17](#)

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### Terminating Early

Licensees can terminate their licence prior to the renewal date if they anticipate they will not be trading in real estate in the upcoming licencing year. Termination forms may be posted-dated with any date up to and including June 30th.

To terminate your licence, complete a [Notice of Termination Form](#) and provide it to the Commission.

Upon termination, for any reason, all advertising (including all online advertising) must immediately be removed or the licensee and their broker may be subject to disciplinary action.

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*I cannot complete my CPE on time, what can I do?*

You may apply to the Commission for a licence extension which will keep your licence active for 30 days until July 30th at which time your remaining required CPE courses must be completed.

At the end of the 30 days, if your CPE is not completed your licence will not be renewed and you must immediately stop all trading activities and advertising until such time as your CPE is complete and you reapply.

To apply for a licence extension, submit a completed *Licence Extension Form* with the corresponding extension fee by no later than **noon on June 30th**.

The [form is available](#) here and at the Commission office.

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*As a broker, what do I need to know about advertising during renewals?*

Brokers are ultimately responsible for the brokerage's advertising and that of their licensees. It is important that you ensure all advertising for licensees who have not renewed their licences is removed prior to June 30th. Failing to do so may result in disciplinary action.

The Commission will review the advertising activity of newly expired and terminated licence holders, including online advertising and social media sites, to ensure compliance with the Real Estate Trading Act and Commission Bylaw. Some sites require several days for changes to be made, therefore be mindful and allow yourself sufficient time to process the request. Should you encounter issues removing advertising in time, including for reasons out of your control, please notify the Commission's [compliance team](#) immediately.

Click the following for information on how to change profile settings on [Facebook](#), [Twitter](#) and [LinkedIn](#).

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**RELEASED: 17/05/17**

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## **New Public Commissioners Appointed**

On the advice of the Minister of Service Nova Scotia, Mark Furey, the Governor in Council has appointed the following public members to the Commission Board of Directors:

- **Carol Beal** of Halifax, Nova Scotia has been appointed for a two-year term.
- **Nancy McGrath** of Bridgetown, Nova Scotia has been appointed for a three-year term.

[Read More](#)

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## **Office Closure**

Our office will be closed on Monday, May 22nd for the Victoria Day holiday.

If your matter is urgent or you require assistance, please contact Brad Chisholm at [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca) or Carolin MacDonald at [cmacdonald@nsrec.ns.ca](mailto:cmacdonald@nsrec.ns.ca).

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## **Recent Sharable Content**



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[What to do when you receive an erroneous offer](#) - March 13, 2017

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**RELEASED:** 09/05/17

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## Seeking Committee Volunteers

Each year the Commission committees are reviewed and populated with new and existing members. We are in search of prospective committee members to serve on our Licensing, Complaints Review, Discipline, Commercial and Forms Committees.

To be considered, the licensee must be in **good standing**, able to serve a one-year term and capable of fulfilling the required duties of the particular committee.

We encourage licensees from across the province with different levels of experience to apply. Each applicant will be assessed by the Board of Directors and chosen based on the information provided at the time of their application.

Those interested in committee membership can email [ddriscoll@nsrec.ns.ca](mailto:ddriscoll@nsrec.ns.ca) with "Committee Volunteer" in the subject line. Please include in the email:

- Your name, brokerage and number of years licensed;
- The committee(s) you wish to become a member of;
- The reason you'd like to volunteer with the Commission; and
- Your experience and/or credentials that make you a good fit for the committee.

**The deadline to apply is Thursday, May 25th, 2017.** Applications after this date will not be considered.

Read more about our committees and time commitment expectations below.

[Read More](#)

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## Forms Focus Groups

We invite licensees who are not able to serve a one-year committee term to participate in one of our forms focus groups. The next series of forms focus groups are set for late 2017 and will encompass all regions of the province. Further information regarding specific dates and how to register will be released in early autumn.

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## Protocol for Real Estate Appraisals

The Nova Scotia Real Estate Appraisers Association (NSREAA) has contacted the NSREC. They ask that we remind real estate licensees that to conduct real estate appraisals, you must be a registered member of the NSREAA. Real estate licensees may provide opinions of value to buyers, sellers and third parties in accordance with section 2(e) of the Real Estate Appraisers Act.

[Read More](#)

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**RELEASED:** 20/04/17

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### **Thank You**

Thank you to all those who attended the Annual General Meeting today to learn about the Commission's progress in 2016 and where we're heading in 2017. For those who couldn't attend, please see our annual report.

[Read More](#)

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### **Welcome to our New Commissioners**

The Commission is pleased to announce the newest additions to our Board:

**Gary Morse** of Royal LePage Atlantic was elected by licensees.

**Linda Smardon** of Exit Realty Metro was appointed by the Nova Scotia Association of REALTORS®.

Read more about our 2017-18 Board of Directors below.

[Read More](#)

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## **Appointed to Chair and Vice Chair**

As decided by the Board of Directors, the 2017 Chair and Vice Chair are as follows:

**Gary Morse** of Royal LePage Atlantic was elected as Chair of the Board of Directors.

**Mary MacDonald** of Walt MacDonald Real Estate was appointed Vice Chair of the Board of Directors.

Congratulations, Gary and Mary.

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## **Thank you to our departing Commissioner**

The Commission would like to extend our sincere thanks to our departing Commissioner **Robert Wambolt** of Harvey Realties Ltd. Robert has served six years on the Board of Directors and was Chair of the Board for his last year.

We thank Robert for his time and service to the Commission and wish him the best in his future endeavors.

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**RELEASED: 18/04/17**

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## **Reminder to Vote with BigPulse!**

There is only one day left to cast your vote for the NSREC Board of Directors election. **Voting closes at 4 p.m. tomorrow.** Please scroll down to view the voting instructions. If you have any questions, please contact Peggy Kell, Communications and Technology Officer by email at [pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca) or phone at 902-468-3511 extension 309.

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## **Office Closure Notices**

Our office will be closed on April 20th from 8:30 a.m. to 1 p.m. for our Annual General Meeting.

If your matter is urgent or you require assistance during this closure, please contact Brad Chisholm at [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca) or Carolin MacDonald at [cmacdonald@nsrec.ns.ca](mailto:cmacdonald@nsrec.ns.ca).

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## **Annual General Meeting**

The Commission invites all licensees to join us for our Annual General Meeting on **Thursday, April 20th, 2017, at 10 a.m.** in the auditorium at 7 Scarfe Court (NSAR Office) in Dartmouth.



Join us to discuss the progress and achievements made in 2016 and what is ahead for us in 2017. RSVP at [agm@nsrec.ns.ca](mailto:agm@nsrec.ns.ca).

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## Candidates for Election Videos

The candidate election [videos](#) are in place of speeches at the Annual General Meeting. You may also visit our website to view the full bios of our candidates (scroll down to see all four).

[Read More](#)

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## How to Cast your Ballot in our Election

**Online voting is open from 9:00 A.M. on April 17th to 4:00 P.M. on April 19th.**

On Monday, all licensees received an email from **be-XXXXX@bigpulse.com** (the Xs will be replaced with digits and letters) with the subject line: **Cast Your Online Ballot in the 2017 NSREC Board Member Election**. The email will resemble the Commission's bulletins and includes voting instructions, a list of candidates and a link to cast your ballot. Check your junk email if you do not see this email in your inbox.

When you are ready to vote, click on the link provided, select your candidate of choice from the list and click **Proceed to vote confirm page**. Next, you may review your selection before confirming your vote. Select the method of vote receipt you wish to receive and click **Confirm**.

The results will be announce at the Annual General Meeting on April 20th.

If you have questions on how to cast your ballot or you did not receive your ballot email, please contact Peggy Kell, Communications and Technology Officer via email at [pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca) or by phone at 902-468-3511 extension 309.

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**News you may have missed...**

## 2016 Annual Report

We are pleased to release our 2016 annual report to the industry.

[Read More](#)

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### Recent Sharable Content

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RELEASED: 10/04/17

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## Meet our Candidates for Election - Videos are here!

We have updated our candidate bios with video speeches. These videos are in place of speeches at the Annual General Meeting. You may also visit our website to [view the full bios of our candidates](#) (scroll down to see all four).

[Read More](#)

---

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## Office Closure Notices

Our office will be closed on April 11th from 12 noon to 2 p.m. for a staff function.

Our office will also be closed on April 14th and 17th for the Easter holiday.

If your matter is urgent or you require assistance during theses closures, please contact Brad Chisholm at [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca) or Carolin MacDonald at [cmacdonald@nsrec.ns.ca](mailto:cmacdonald@nsrec.ns.ca)

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## News you may have missed...

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## Staff Changes at the Commission

**Danielle Driscoll** has joined the Commission as the new Communications Officer. Danielle has a Bachelor of Arts from Memorial University and Bachelor of Public Relations from Mount Saint Vincent University. We are thrilled to welcome her to our team!

**Sarah Hill**, Communications Officer, has decided to pursue an opportunity abroad and will be leaving the Commission. Sarah joined us in March 2014 as a Communications Coordinator and later moved to the role of Communications Officer. We wish her the best in her future endeavors.

**Courtney LeBlanc**, Compliance Inspector will be taking maternity leave this month as she awaits the arrival of her second child. We wish Courtney the best as her family grows and look forward to her return in 2018.

**Please Note:** In Courtney's absence please contact Mallory LeBlanc at [mleblanc@nsrec.ns.ca](mailto:mleblanc@nsrec.ns.ca) for all audit-related inquiries.

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## **Meet our Candidates for Election**

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## News you may have missed...

### New Discipline Newsletter Released

The Commission has released their March 2017 issue of our discipline newsletter.

[Read More](#)

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[Did you know: An e-signature's date stamp replaces the 'dated' line?](#) - February 7, 2017

[Proactively deal with expiring agreements](#) - January 17, 2017

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## Meet our Candidates for Election

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## Buyer Brokerage Agreement Resources

A reminder to licensees that the Commission has put together a one-stop shop of resources on the new Buyer Brokerage Agreement for both consumers and licensees. Included are answers to questions such as:

- Why now?
- What is the purpose of buyer brokerage agreements?
- When should a buyer brokerage agreement be signed?
- What should consumers know when given a buyer brokerage agreement?
- What are the Do's and Don'ts for licensees?

If you have questions that are not answered here, please contact our compliance team at [compliance@nsrec.ns.ca](mailto:compliance@nsrec.ns.ca)

[Visit nsrec.ns.ca/bba](http://nsrec.ns.ca/bba)

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## Recent Sharable Content

[Buying your first home takes more than a bit of luck](#) - March 17, 2017

[What to do when you receive an erroneous offer](#) - March 13, 2017

[Co-listing a property](#) - March 3, 2017

[How to treat excess deposits](#) - February 22, 2017

[Did you know: An e-signature's date stamp replaces the 'dated' line?](#) - February 7, 2017

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ENSURING CONSUMER  
CONFIDENCE THROUGH  
REAL ESTATE REGULATION

RELEASED: 15/03/17

## **New Discipline Newsletter Released**

The Commission has released their March 2017 issue of our discipline newsletter.

[Read More](#)

## **Board of Director Nominations Due Shortly**

The Commission invites interested licensees to nominate themselves to fill one three-year term with the Commission's Board of Directors. The deadline for nominations is Tuesday, March 21st at 4:00 p.m.

[Read More](#)

## **Annual General Meeting**

The Commission invites all licensees to join us for our Annual General Meeting on Thursday, April 20th, 2017, at 10 a.m. in the auditorium at 7 Scarfe Court (NSAR Office) in Dartmouth.

Join us to discuss the progress and achievements made in 2016 and what is ahead for us in 2017. RSVP at [agm@nsrec.ns.ca](mailto:agm@nsrec.ns.ca).

## News you may have missed...

### Buyer Brokerage Agreement Resources

A reminder to licensees that the Commission has put together a one-stop shop of resources on the new Buyer Brokerage Agreement for both consumers and licensees. Included are answers to questions such as:

- Why now?
- What is the purpose of buyer brokerage agreements?
- When should a buyer brokerage agreement be signed?
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ENSURING CONSUMER  
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REAL ESTATE REGULATION

**RELEASED:** 16/02/17

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## **Annual General Meeting**

The Commission invites all licensees to join us for our Annual General Meeting on Thursday, April 20th, 2017, at 10 a.m. in the auditorium at 7 Scarfe Court in Dartmouth.

Join us to discuss the progress and achievements made in 2016 and what is ahead for us in 2017. RSVP at [agm@nsrec.ns.ca](mailto:agm@nsrec.ns.ca).

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## **Put the Self in Self-Regulation!**

The Commission invites interested licensees to nominate themselves to fill one three-year term with the Commission's Board of Directors.

[Read More](#)

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## **Employment Opportunity: Communications Officer**

The Commission is hiring a permanent, full-time Communications Officer.

Qualified applicants should send their coverletter, résumé and two writing samples to [sarahhill@nsrec.ns.ca](mailto:sarahhill@nsrec.ns.ca) by 4:00 p.m. on Friday, March 3, 2017.

[Read the Full Job Posting](#)

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## Office Closure Notice

The Commission's office will be **closed on Monday, February 20th** for Heritage Day. If you have an urgent matter during this time, please contact Brad Chisholm, Registrar, at [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca).

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## News you may have missed...

### Buyer Brokerage Agreement Resources

A reminder to licensees that the Commission has put together a one-stop shop of resources on the new Buyer Brokerage Agreement for both consumers and licensees. Included are answers to questions such as:

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[Visit nsrec.ns.ca/bba](http://nsrec.ns.ca/bba)

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### Article: What is Considered Trading in Real Estate?

Your real estate licence authorizes you to trade in real estate in Nova Scotia as it is defined in the Real Estate Trading Act.

Simply put, trading in real estate is acting on behalf of a consumer to buy or sell real property, which includes land and any dwellings attached to or included with the land, such as houses, apartment buildings, condominiums, commercial space and mobile homes. Trading also includes commercial leasing and commercial property management.



[Read More](#)

---

## Recent Sharable Content

[DID YOU KNOW: An e-signature's date stamp replaces the 'dated' line?](#) - February 7, 2017

[Proactively deal with expiring agreements](#) - January 17, 2017

[When a licensee changes brokerages, what happens to their listings?](#) - November 30, 2016

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We send email updates to Nova Scotia real estate licensees and stakeholders. These important updates are intended to inform licensees on specifics of the Real Estate Trading Act, its Regulations and the Commission Bylaw, and may include additional topical information relating to real estate regulation.

Nova Scotia Real Estate Commission  
601-1595 Bedford Highway  
Bedford, Nova Scotia B4A 3Y4  
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## Suspension Notice

### Effective immediately

The Nova Scotia Real Estate Commission hereby gives notice that the following individuals' real estate licences have been suspended for failure to comply with [Commission Bylaw 365\(b\)](#).

[See Suspension Details](#)

This notice has been distributed to licensees in accordance with [Commission Bylaw 839](#).



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CONFIDENCE THROUGH  
REAL ESTATE REGULATION

RELEASED: 01/02/17

---

## Bylaw Revisions

The Commission Board of Directors have approved amendments to the Commission Bylaw, effective February 1, 2017.

[Read More](#)

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## Office Closure Notice

The Commission's office will **close at noon on Friday, February 3rd** for a staff function. If you have an urgent matter during this time, please contact Brad Chisholm, Registrar, at [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca).

---

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- What are the Do's and Don't's for licensees?

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Visit [nsrec.ns.ca/bba](http://nsrec.ns.ca/bba)

---

## BBA Information Sessions

The Nova Scotia Association of REALTORS® has agreed to hold an **additional mandatory buyer brokerage agreement information session** for licensees who practice common law agency. This additional course will be held on Friday, February 3<sup>rd</sup> from 9:00 a.m. to noon in the NSAR Auditorium at 7 Scarfe Court.

If you are a licensee at a common law brokerage you are required to take the BBA info session or the updated common law agency course (courses after October 2016) by February 12, 2017.

The BBA info session is a half day and the course fee is \$109.25. The common law course is a full day and the course fee is \$287.50.

**[Please contact the NSAR to register.](#)**

---

## The Clause Book is Back!

We're pleased to release the revised Clause Book ahead of schedule!

The purpose of this resource is to assist licensees in determining the appropriate language for basic conditions in agreements. The clauses have been written in a standard format that are in conformity with the Act and Bylaw and may be amended to better reflect unique situations.

A big thank you to the Commission's Forms Committee for taking on the task of revising the previous Clause Book and working diligently to improve this resource for licensees.

**[Download the Clause Book](#)**

---

## Recent Sharable Content

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**[When a licensee changes brokerages, what happens to their listings?](#)** - November 30, 2016

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**RELEASED:** 19/01/17

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## Win a Free Licence Renewal!

The Commission turns 20 this weekend and we're celebrating with a draw for a free licence renewal!

Entering is easy, all you have to do is **LIKE the post about our contest on our Facebook page** anytime from now until 11:59 p.m. on January 22nd. We'll announce the randomly selected winner on Monday, January 23rd.

**GOOD LUCK!**

*\*Note that you must be currently licensed with the Commission to enter. The free licence renewal does not include any applicable Recovery Fund fee.\**

[Go to our Facebook page](#)

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## Buyer Brokerage Agreement Resources

A reminder to licensees that the Commission has put together a one-stop-shop of resources on the new Buyer Brokerage Agreement for both consumers and licensees. Included are answers to questions such as:

- Why now?

- What should consumers know when given a buyer brokerage agreement?
- What are the Do's and Dont's for licensees?

If you have questions that are not answered here, contact us!

Visit [nsrec.ns.ca/bba](http://nsrec.ns.ca/bba)

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## Commercial Forum

Reminder to Commercial licensees that NSAR Commercial Forum is on Friday, January 20th. To satisfy the CPE requirements, commercial salespeople may attend either the Commercial Forum **OR** the course *Effective Communication and Real Estate*.

[Register for the Commercial Forum](#)

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## News you may have missed...

### BBA Information Sessions

The Nova Scotia Association of REALTORS® has agreed to hold an **additional mandatory buyer brokerage agreement information session** for licensees who practice common law agency. This additional course will be held on Friday, February 3<sup>rd</sup> from 9:00 a.m. to noon in the NSAR Auditorium at 7 Scarfe Court.

If you are a licensee at a common law brokerage you are required to take the BBA info session or the updated common law agency course (courses after October 2016) by February 12, 2017.

The BBA info session is a half day and the course fee is \$109.25. The common law course is a full day and the course fee is \$287.50.

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### Discipline Newsletter Released

The Commission has released the latest Discipline Newsletter.

---

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[Homes with spooky histories: Stigmatized Properties](#) - Oct 31, 2016



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**RELEASED:** 16/01/17

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## The Commercial Forum is This Week!

Reminder to our commercial licensees that NSAR Commercial Forum is on Friday, January 20th. Commercial salespeople are required to attend the Commercial Forum as their CPE requirement, **or** they may complete the course *Effective Communication and Real Estate*.

[Register for the Commercial Forum](#)

---

## News you may have missed...

### BBA Information Session One Left

The Nova Scotia Association of REALTORS® has agreed to hold an **additional mandatory buyer brokerage agreement information** for licensees who practice common law agency.

The final session is on Friday, February 3<sup>rd</sup> from 9:00 a.m. to noon in the NSAR Auditorium at 7 Scarfe Court.

If you are a licensee at a common law brokerage you are required to take the BBA info session or the updated common law agency course (courses after October 2016) by February 12, 2017.

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**RELEASED: 23/12/16**

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## **Important Notice for Common Law Licensees: Two BBA Information Sessions Added!**

The Nova Scotia Association of REALTORS® has agreed to hold **two additional mandatory buyer brokerage agreement information** for licensees who practice common law agency.

These additional courses will be held on Monday, January 16<sup>th</sup> and Friday, February 3<sup>rd</sup> from 9:00 a.m. to noon in the NSAR Auditorium at 7 Scarfe Court.

If you are a licensee at a common law brokerage you are required to take the BBA info session or the updated common law agency course (courses after October 2016) by February 12, 2017.

The BBA info session is a half day and the course fee is \$109.25. The common law course is a full day and the course fee is \$287.50.

**[Please contact the NSAR to register.](#)**

---

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The Commission has released the latest Discipline Newsletter.

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## Buyer Brokerage Agreements are becoming mandatory for common law licensees

Starting January 1, 2017, brokerage agreements will be mandatory for all buyer clients of brokerages in Nova Scotia.

We have put together some reference material to help licensees and consumers when completing these agreements. Everything you need is conveniently located at [nsrec.ns.ca/bba](http://nsrec.ns.ca/bba)

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## Office Closure Notice

The Commission's office will close at noon on Friday, December 23rd and will remain closed until Tuesday, January 3rd at 8:30 a.m.

If you require assistance during this closure, contact Brad Chisholm at [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca) or Carolin MacDonald at [cmacdonald@nsrec.ns.ca](mailto:cmacdonald@nsrec.ns.ca)

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## New Policy for Coming Soon Advertising

The use of 'Coming Soon' advertisements by licensees for properties pending placement on the MLS system has noticeably increased over the past few months. The next time you take to Instagram or Facebook to highlight an anticipated future listing, take a moment to ensure what you are displaying meets the Commission's Board of Director's

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## Recent Sharable Content

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**RELEASED: 22/12/16**

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## Office Closure Notice

The Commission's office will have limited operational hours on Friday, December 23rd; from 9:30 a.m. to 12:00 p.m.

The office will remain closed until Tuesday, January 3rd.

If you require assistance during this closure, contact Brad Chisholm at [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca) or Carolin MacDonald at [cmacdonald@nsrec.ns.ca](mailto:cmacdonald@nsrec.ns.ca)

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## Recent Sharable Content

[Buyer Brokerage Agreement Overview](#) - December 7, 2016

[Top 10 Q&As on Buyer Brokerage Agreements for Consumers](#) - December 7, 2016

[Buyer Brokerage Agreement Do's & Dont's for Licensees](#) - December 7, 2016

[When a licensee changes brokerages, what happens to their listings?](#) - November 30, 2016

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**RELEASED: 16/12/16**

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[Read More](#)

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**News you may have missed...**



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We have put together some reference material to help licensees and consumers when completing these agreements. Everything you need is conveniently located at [nsrec.ns.ca/bba](http://nsrec.ns.ca/bba)

---

## The Audit Task Force wants your feedback

First announced in September, the Commission's new Audit Task Force is reviewing the **entire** audit/inspection program and they want your thoughts on the current system. What works? What doesn't? Let them know.

[Read More](#)

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[Read More](#)

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**RELEASED:** 07/12/16

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## **Buyer Brokerage Agreement courses ending soon!**

A reminder for all common law licensees that the Commission has been providing **mandatory** information sessions in communities across the province to common law licensees free of charge. These seminars focus directly on using the new Buyer Brokerage Agreement and are available to licensees up until the end of the month.

For more information on these sessions, [read our August bulletin](#).

[Click here to view the scheduled course dates](#)

---

## **Help us Help Souls Harbour Rescue Mission!**

The Commission is proud to be supporting Halifax's Souls Harbour Rescue Mission's Operation Christmas Stocking program once again this year.

## News you may have missed...

### The Audit Task Force wants your feedback

First announced in September, the Commission's new Audit Task Force is reviewing the **entire** audit/inspection program and they want your thoughts on the current system.

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RELEASED: 01/11/16

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## **New real estate forms released today**

The Commission is pleased to announce the release of the following updated forms:

[\*\*Form 112 – Seller/Customer Acknowledgement & Fee Agreement\*\*](#)

[\*\*Form 203 – Mere Posting Service Agreement\*\*](#)

[\*\*Form 222 – Amendment to Service Agreement\*\*](#)

[\*\*Form 223 – Assignment of Brokerage Agreement\*\*](#)

[\*\*Form 224 – Temporary Withdrawal or Termination of Service Agreement\*\*](#)

Licensees must transition to the updated versions by **January 1, 2017**.

After this date, all unused copies of older versions must be discarded.

[\*\*See the full list of the Commission's mandatory forms here\*\*](#)

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## **News you may have missed...**

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For more information on these sessions, [read our August bulletin](#).

[Click here for scheduled course dates](#).

---

## Recent Sharable Content

[Homes with Spooky Histories: Stigmatized Properties](#) - Oct 31, 2016

[Trust Deposits & Disbursements](#) - Oct 26, 2016

[Common Errors with Electronic Signatures](#) - Oct 13, 2016

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## **New forms to be released on November 1**

The Commission is pleased to announce that the following updated forms will be released on [nsrec.ns.ca](http://nsrec.ns.ca) on November 1st, 2016:

- Form 112 – Seller/Customer Acknowledgement & Fee Agreement
- Form 203 – Mere Posting Service Agreement
- Form 222 – Amendment to Service Agreement
- Form 223 – Assignment of Brokerage Agreement
- Form 224 – Temporary Withdrawal or Termination of Service Agreement

Licensees must transition to the updated versions by **January 1, 2017**. After this date, all unused copies of older versions must be discarded.

---

## **New Policy for Coming Soon Advertising**

The use of 'Coming Soon' advertisements by licensees for properties pending placement on the MLS system has noticeably increased over the past few months. The next time you take to Instagram or Facebook to highlight an anticipated future listing, take a moment to ensure what you are displaying meets the Commission's Board of Director's recently approved policy setting minimum standards for 'Coming Soon' advertising and promotions.

[Read More](#)

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## wants your feedback

First announced in September, the Commission's new Audit Task Force is reviewing the **entire** audit/inspection program and they want your thoughts on the current system. What works? What doesn't? Let them know.

[Read More](#)

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## Reminder for common law licensees: Have you taken your mandatory BBA course?

A reminder for all common law licensees that the Commission has been providing **mandatory** information sessions in communities across the province to common law licensees free of charge. These seminars focus directly on using the new Buyer Brokerage Agreement and are available to licensees up to December 2016.

Note that common law licensees who practice **solely** in commercial real estate (zero residential trades) will not be required to attend an information session.

For more information on these sessions, [read our August bulletin](#).

[Click here for scheduled course dates](#).





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ENSURING CONSUMER  
CONFIDENCE THROUGH  
REAL ESTATE REGULATION

RELEASED: 07/09/16

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## 2016/17 Continuing Professional Education Requirements

We are pleased to announce the Continuing Professional Education requirements for the 2016/17 licensing cycle.

A reminder to licensees that a recent Bylaw change moved the deadline for completing Continuing Professional Education from June 30th to **June 15th, 2017**.

[Read More](#)



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**RELEASED:** 06/09/16

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## Latest Discipline Newsletter

The Commission has released our September Discipline Newsletter.

[Read More](#)

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## Check out the new nsrec.ns.ca

Today, we're excited to introduce to you our redesigned website! The new website is a central hub of information for consumers and licensees – both of which have new sections tailored specifically towards their needs.

Some exciting new features of the website include:

- **Ask a Question:** A tool that allows you to anonymously ask the Commission questions about trade practices, processes, rules anything else you can think of. We'll review the questions and post our answers on the website.
- **Broker Toolbox:** We have created a place for brokers to access those often-needed items all in one place.
- **Expanded Frequently Asked Questions section:** This ever-growing section includes answers on how to handle specific trade scenarios, how to complete basic licensing functions and details on the complaints and investigation processes.
- **Shareable articles:** We are building our news section with articles that licensees can easily share on their own social media platforms.

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accessible whether you are browsing on your phone, your laptop or tablet.

The new website has an improved and intuitive flow of information, easy-to-read content and a clean, user-friendly layout. We strive to ensure our website is easy to use, regardless of your level of tech-savviness, and allows you to quickly locate the information you're looking for.

If you have any questions or experience any issues while using our new website, please contact our [Communications Officer](#).



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## Happy Natal Day!

The Commission office is closed today for Natal Day and will re-open tomorrow at 8:30 a.m. We wish everyone a safe and happy holiday.

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## Updated Mandatory Forms

The Commission is pleased to release updated versions of the *Buyer Brokerage Agreement* and the *Buyer Designated Brokerage Agreement*, which are now available for use through the Commission on [nsrec.ns.ca](http://nsrec.ns.ca).

These forms have also been provided to the NSAR for release on WebForms and in hard copy format.

The Commission has also updated the *Seller Brokerage Agreement* and *Seller Designated Brokerage Agreement* to ensure wording is consistent where appropriate.

Licensees must transition to the updated versions of the Buyer Brokerage Agreement (if voluntarily used prior to January 1), Buyer Designated Brokerage Agreement, Seller Brokerage Agreement and Seller Designated Brokerage Agreement by **October 1st, 2016**. After this date, all unused copies of expired forms must be discarded. The Buyer Brokerage Agreement is mandated for use by common law licensees as of **January 1st, 2017**.

To ensure you are using the updated forms, check the published date in the upper right-hand corner. **The updated forms read 16/06/2016.**

[Download the Updated Forms](#)

---

communities across the province to common law licensees this upcoming fall, free of charge. These seminars will focus directly on using the new Buyer Brokerage Agreement and will be available to licensees up to December 2016.

If you do not attend any of the organised information sessions, you will be required to complete the regularly scheduled Common Law Agency course by February 12th, 2017, at full cost. As of January 1, 2017, this course will be updated to include information on the revised Buyer Brokerage Agreement. Failure to complete either the free information session or the Common Law Agency course by February 12, 2017, will result in your licence being suspended until the requirement is confirmed completed.

Common law licensees who practice solely in commercial real estate (zero residential trades) will not be required to attend an information session. Instead, as of January 1, 2017, these licensees are required to include certain terminology in their tenancy/buyer agreements, including, but not limited to:

- expiry date;
- disclosure of remuneration information; and
- outline of the obligations and promises owed between the client and brokerage.

More information on dates and locations of these information sessions will be provided to the industry in the coming weeks. **STAY TUNED!**

---

## Updates to Buyer Brokerage Agreements

What are the key updates to the Buyer Brokerage Agreement and the Buyer Designated Brokerage Agreement?

[Download our review of the critical changes](#)

## Mandatory Forms for Non-Members of the Nova Scotia Association

## Mandatory Forms Committee Update

The Commission's mandatory forms committee has been working diligently to produce the next round of updated forms for a fall release. They include:

- Form 112: Seller/Customer Acknowledgement & Fee Agreement
- Form 203: Mere Posting Service Agreement

generic versions of the Buyer Brokerage Agreement, the Buyer Designated Brokerage Agreement, the Seller Brokerage Agreement and the Seller Designated Brokerage Agreement for use by brokerages that are not members of the NSAR.

[Download the forms here](#)

- Form 223: Assignment of Brokerage Agreement
- Form 224: Temporary Withdrawal or Termination of a Service Agreement (**NEW**)

The committee is currently working on the Transaction Brokerage Agreement with an anticipated release in Spring 2017.



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## Changes to broker licensing requirements and brokerage inspections for newly licensed brokers

The Commission's Board of Directors have approved bylaw amendments presented by the Licensing Committee. These amendments are new licensing requirements for broker-level licensees, as well as increased frequency of brokerage inspections (formerly *audits*) for newly licensed brokers. This decision was made after various inspections revealed that many newly licensed brokers were not meeting the minimum passing requirements.

### NEW LICENSING REQUIREMENTS

An applicant for a broker-level licence (associate broker, managing associate broker and broker) must now have:

- three years experience as a licensed salesperson; and
- conducted a minimum of 20 residential real estate transactions, including five transactions where the applicant represented the buyer in single agency and five transaction where the applicant represented the seller in an agency relationship; **or**
- conducted a minimum of 10 commercial real estate transactions; **or**
- equivalent experience approved by the Commission

### NEW BROKERAGE INSPECTION SCHEDULE

In the case of first-time broker applicants, the Commission will conduct three inspections in the broker's first year of licensing, two of which must achieve a minimum of a 'good' rating. A fourth inspection will be conducted in the first half of the broker's second year of licensing, which must also obtain a minimum of a 'good' rating. Should a broker fail to achieve the required minimum rating, they

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All first-time brokers will now be issued a conditional licence upon initially licensing until the time that they have completed their inspection requirements. At that point, the condition on the licence will be removed.

---

## Read the recent updates to the Commission Bylaw

A number of Bylaws outlining the changes above were recently approved by the Board of Directors. In cases where a Bylaw has been amended, the updated text is **bold**.

[View the Commission Bylaw](#)

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## Release of updated forms including the new Buyer Brokerage Agreement

The Commission has approved the new Buyer Brokerage Agreement and updated versions of the Buyer Designated Brokerage Agreement, Seller Brokerage Agreement and Seller Designated Brokerage Agreement. These forms will be released to the industry on **Monday, August 1st** on the Commission's website. The forms have also been provided to the NSAR for placement on WebForms and to be provided in traditional print form.

**Licensees are required to transition to using these updated forms by October 1, 2016, including the Buyer Brokerage Agreement if it is voluntarily used prior to its January 1, 2017 mandate.**

After October 1st, all unused copies of expired forms must be discarded. To ensure you are using the updated forms, check the published date in the upper right-hand corner. The updated forms read **16/06/16**.

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## Licence Terminations

Effective July 1st, the real estate licences of the following individuals have been terminated for failing to meet their continuing professional education requirements as mandated by [Bylaw 323\(a\)](#).

[Full details here.](#)

---

### Bylaw Updates: Licensing

#### New CPE Deadline

The deadline to complete your Continuing Professional Education in the 2016/17 cycle has been changed from June 30th to **June 15th**.

[View amended Bylaw](#)

### Policy Update: Agency

#### Agency Courses

Our policy regarding reinstating a licence to a different agency model has been updated to give licensees **six weeks** to complete the corresponding agency course, increased from 30 days.

[View full policy](#)



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## Policy Revision: **Adding a Second Buyer to an Agreement of Purchase and Sale**

We [published an article in January 2016](#) clarifying the procedure to add new buyers to an accepted Agreement of Purchase and Sale (APS). As noted in the article, the procedures were initially developed using a legal opinion provided to the Commission. We recently discovered that this subject was being covered in the 2015/16 mandatory course “20 Timely Topics for Salespeople” using slightly different variations of the policy by the respective course instructors. As a result, compliance staff met with the instructors to re-examine the policy to ensure consistency between the course instructors and the Commission.

We determined that the policy was still in need of a minor revision. We work hard to ensure such procedures are thoroughly analysed and correct to keep such revisions to an absolute minimum and appreciate licensees' cooperation and understanding in getting this right. Please note that the Commission's inspectors and investigator view the previously published and updated policy correct in transaction files for this time period.

The most significant revision is that the final step is now optional. While it is not contractually required, it is a recommended risk management practice.

**STEP ONE:** If not already obtained, any additional documents required for buyers such as: Working with the Real Estate Industry form, Buyer (Designated) Brokerage Agreement, Customer Status Acknowledgements, etc.

would need to be completed with the new buyer.

**STEP TWO:** Complete an amendment to the APS, adding the new buyer. The following clauses for the amendment clearly outline the addition of the new buyer (insert the individual's name where the clauses reference [new party]):

*“a. [New party] is entering into the amendment to become a party to the agreement of purchase and sale (“the Agreement”) dated\* the [date] day of [month] between [name of originally listed buyer] as buyer and [name(s) of seller(s)] as seller. The Agreement and the existing parties to the Agreement are entering into this amendment to accept the [new party] being added to the Agreement as buyer; and”*

*“b. [New party] confirms their acceptance of all of the terms of the Agreement.*

\*Date refers to the date of acceptance.

**STEP THREE:** The added buyer and all of the original parties must all sign the amendment to the APS consenting to the additional buyer being added.

**STEP FOUR: (Optional)** Have the added buyer initial and date the bottom of each page of a copy of the original APS, the PDS, the Schedule of Leased/ Rented Equipment and any other relevant real estate documents, as evidence that the new buyer clearly read and understood all terms.

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## **CPE Reminder**

CPE requirements must be completed by **June 30th, 2016**, to process your renewal.

[See Continuing Professional Education requirements for 2015/16](#)

**Failing to complete CPE prior to the deadline will result in your licence being terminated.**

Licensees may terminate their licence prior to the renewal date. Termination forms may be post-dated for any date up to and including June 30th.

Upon termination, for any reason, all advertising (including all online advertising) must be immediately removed or you and your broker may be subject to disciplinary action.

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### **I cannot complete my CPE on time, can keep my licence active?**

You may apply to the Commission for a licence extension which will keep your licence active for 30 days until July 31st, 2016, at which time your remaining required CPE courses must be completed.

At the end of the 30 days, if your CPE is not completed your licence will not be renewed and you must immediately stop all trading activities and advertising until such time as your CPE is complete and you reapply.

To apply for a licence extension, submit a completed *Licence Extension Form* with the corresponding extension fee by no later than noon on June 30th. The [form is available here](#) and at the Commission office.

### **I am a broker, what do I need to know about advertising during renewals?**

As the broker is ultimately responsible for your brokerage's advertising and that of your licensees, it is important that you ensure all advertising for licensees who have not renewed their licences is removed prior to July 1st. Failing to do so may result in disciplinary action.

The Commission will review the advertising activity of newly expired licence holders, including online advertising and social media sites, to ensure compliance with the Real Estate Trading Act and Commission Bylaw. Be aware that some sites require several days for changes to be made, therefore be mindful and allow yourself sufficient time to process the request. Should you encounter issues removing advertising in time, including for reasons out of your control, please notify the Commission's [compliance team](#) immediately.

Click the following for information on

how to change profile settings  
on [Facebook](#), [Twitter](#) and [LinkedIn](#)



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## Recent Updates to the Commission Bylaw

Two bylaws were recently updated by the Board of Directors.

### **Bylaw 318(c)** now reads:

*An applicant who has successfully completed the required licensing course, but has never been previously licensed must obtain a licence within **180 days** of passing the exam.*

This duration of time has been extended from 90 days to give new licensees flexibility on when to license and also to bring our requirements in line with other Canadian jurisdictions.

### **Bylaw 639(b)** now reads:

*In cases where the inspection, audit, or review is to be conducted at the location of the Commission, **delivery to the Commission office and return to the brokerage shall be conducted as specified by the Commission and the Commission shall bear the required costs.***

Purolator services the entire province and is the courier used when requesting documentation for inspection/audit purposes. In situations where the Commission determines the inspection and/or audit will be conducted per Bylaw 639(b), the Commission will bear the courier cost.

---

## Seeking volunteers for our committees

We are looking for volunteers to serve on our Licensing, Complaints Review, Discipline, Commercial and Form Committees.

### **What does serving on a committee entail?**

Serving on a committee provides excellent learning opportunities while allowing you to be a part of the important regulatory process. Licensing or Complaints Review Committee members are required to attend a minimum of four meetings per year as well as additional time spent reviewing documents. Discipline Committee members, may be called upon during the year to serve on a hearing panel, which may require one to three days for a hearing and additional time writing the decision. Members of the Forms Committee must commit to bi-monthly or often monthly meetings depending on the forms being reviewed. The Commercial Committee meets at the discretion of the Chair of the Commercial Committee. All committee volunteers serve for one year.

### **Who is eligible to serve on a committee?**

To apply, you must be an licensee in good standing. See [Bylaw 255](#) for what constitutes 'good standing'.

### **How do I put my name forward to serve on a committee?**

Those interested can email [sarahhill@nsrec.ns.ca](mailto:sarahhill@nsrec.ns.ca) with "Committee Volunteer" in the subject line. In the body of the email, outline;

- your name, brokerage and number of years licensed;
- which committee(s) you wish to become a member of;
- experience and/or credentials that you feel would make you a good fit for the committee; and
- why you would like to volunteer with the Commission.

All applications must be received by **Friday, May 20th, 2016.**

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## **CPE Reminder**

CPE requirements must be completed by **June 30th, 2016**, to process your renewal.

[See Continuing Professional](#)

## **Staff Changes at the Commission**

The Commission is pleased to welcome back Courtney LeBlanc back to our office as Compliance Inspector. Courtney is resuming her

## [Education requirements for 2015/16](#)

**Failing to complete CPE prior to the deadline will result in your licence being terminated.**

Licensees may choose to terminate their licence prior to the annual renewal date.

Upon termination, for any reason, all advertising (including all online advertising) must be immediately removed or you and your broker may be subject to disciplinary action.

role conducting inspections across the province this week and can be reached at [cleblanc@nsrec.ns.ca](mailto:cleblanc@nsrec.ns.ca) or extension 306.

As Courtney returns, we would also like to thank Crystal Yeo for her work with the Commission during Courtney's maternity leave. Crystal quickly became an active member of our compliance team and conducted dozens of inspections during her time with the Commission. Our staff and commissioners thank Crystal for her dedication to her work and wish her the best in her future endeavors.



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## ENSURING CONSUMER CONFIDENCE THROUGH REAL ESTATE REGULATION

**Released:** Monday, April 4th, 2016

### **In this issue:**

Annual Report Released

Nominees for Election to  
the Board of Directors

Voting and Proxies

### **Mark your Calendar**

The Commission will be holding our Annual General Meeting on April 22nd, 2016 at 10:00 a.m. in the auditorium at 7 Scarfe Court. RSVP at [agm@nsrec.ns.ca](mailto:agm@nsrec.ns.ca)

### **We're Moving!**

**As of May 1st, 2016**, our office location will be:

601-1595 Bedford Hwy,  
Bedford, NS, B4A 3Y4

**[Read our Relocation  
Q&A for more  
information](#)**

## **2015 Annual Report Released**

The Commission is pleased to share our latest Annual Report.

2015 was a busy and productive year, with both opportunities and successes for the Commission and the future of real estate regulation in Nova Scotia.

We hope that you will enjoy reviewing 2015 through our annual report. If you have any questions about its contents, or wish to be emailed a copy of the full report, contact us at [info@nsrec.ns.ca](mailto:info@nsrec.ns.ca).

**[Read the Annual Report](#)**

## **Board of Directors Elections: and the nominees are...**

**Gary Mailman**, Salesperson, Exit Realty Inter Lake

**Paul Mann**, Broker, Re/Max Banner Real Estate

**Lisa White**, Broker, Evolution Real Estate Services

[Read full bios of the nominees](#)

---

## Voting & Proxies

You may vote in person at the AGM or by proxy vote. Proxy voting permits you to appoint another licensee, who will be attending the AGM, to vote on your behalf. Licensees may carry a maximum of two proxy votes.

### Important info when carrying proxies:

- Proxies must be faxed (902-468-1016/1-800-390-1016), emailed ([pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca)) or personally delivered to the Commission office **before 4:00 p.m. on Tuesday, April 19th, 2016**. Proxy forms received after that time will not be accepted.
- You will receive a verification email from the Commission within 24 hours of submitting the form confirming we have received your proxy voting form. If you do not receive a verification email by noon on Thursday, April 21st, contact Peggy Kell directly at 902-468-3511 ext. 309 or [pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca).
- If you carry a proxy vote for another licensee, it is recommended that you arrive at the AGM 30 minutes in advance to register and receive your ballots.

[Download the Proxy Form](#)



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We send email updates to Nova Scotia real estate licensees and stakeholders. These important updates are intended to inform licensees on specifics of the Real Estate Trading Act, its Regulations and the Commission Bylaw, and may include additional topical information relating to real estate regulation.

news@nsrec.ns.ca | 902-468-3511

Nova Scotia Real Estate Commission  
7 Scarfe Court  
Dartmouth, NS B3B 1W4  
Canada



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## ENSURING CONSUMER CONFIDENCE THROUGH REAL ESTATE REGULATION

**Released:** Friday, March 18th, 2016

### **In this issue:**

New Effective Date  
for Buyer Brokerage  
Agreements in Common  
Law

Discipline Newsletter  
Released Today

Deadline Approaching: Call  
for Commission Board of  
Directors Nominations

### **Mark your Calendar!**

The Commission will be  
holding our Annual General  
Meeting on April 22nd,  
2016, in the auditorium at  
7 Scarfe Court. RSVP at  
[agm@nsrec.ns.ca](mailto:agm@nsrec.ns.ca)

### **We're Moving!**

**As of May 1st, 2016**, our  
office location will be:

601-1595 Bedford Hwy,  
Bedford, NS, B4A 3Y4

**[Read our Relocation  
Q&A for more  
information](#)**

## **We're Listening: Buyer brokerage agreements for common law brokerages now mandatory as of January 1, 2017**

In January, we announced a Board of Directors decision to make buyer brokerage agreements mandatory for common law brokerages as of July 1, 2016.

In the process of reviewing the Buyer Brokerage Agreement and the Buyer Designated Brokerage Agreement, five focus groups have been held across the province with licensees from common law and designated agency brokerages, as well as consumers. In reviewing the feedback from those focus groups, we have heard loud and clear that licensees want educational support and more time to review, discuss, and receive answers to their questions about the revised forms.

Buyer brokerage agreements capture the roles, responsibilities and obligations of both

the buyer and the brokerage, ensuring the parties are on the same page. We understand the importance of providing licensees with the knowledge and skills to comfortably discuss and execute these contracts with consumers. A brokerage with clear written instruction and a well-informed buyer reduces the potential for conflicts and confusion and enhances consumer protection.

**In response, Commissioners are providing the industry with more time. Buyer Brokerage Agreements for common law brokerages will now be mandatory as of January 1, 2017.**

The revised Buyer Brokerage Agreement and Buyer Designated Brokerage Agreement, as well as more information on educational initiatives regarding these forms, will be communicated to the industry in the coming months.

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## **New Discipline Newsletter Released**

The Commission has released our latest Discipline Newsletter. Disciplinary decisions are communicated to licensees in accordance with [Commission Bylaw 839](#).

[Read the Discipline Newsletter here.](#)

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## **Call for Nominations: Commission Board of Directors Election**

We would like to remind licensees that the deadline to submit nomination forms for the Board of Directors election is quickly approaching. All nomination forms must be received by the Commission by **4:00 p.m. on Wednesday, March 23rd**.

The election to fill this vacancy will take place at the Commission's Annual General Meeting on Friday, April 22nd, 2016, at 10 a.m. in the auditorium at 7 Scarfe Court in Dartmouth.

If you have questions about the application requirements, the election process or the time commitment involved, please contact Peggy Kell at [pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca)

[Download the nomination form](#)

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## ENSURING CONSUMER CONFIDENCE THROUGH REAL ESTATE REGULATION

**Released:** Wednesday, February 3rd, 2016

### Mark your Calendar!

Our Annual General Meeting will be held on **Friday, April 22nd, 2016** in the Auditorium at 7 Scarfe Court in Burnside.

Further information on elections and voting will be released shortly.



Did you miss our Special Edition Newsletter released in January?  
[View it here](#)

### We're Moving!

As of May 1st, 2016, our office location will be:

602-1595 Bedford Hwy,  
Bedford, NS, B4A 3Y4

[Read our Relocation Q&A for more information](#)

### REMINDER: Updated mandatory forms must now be used

Five updated mandatory forms were released on January 4th, 2016 and made available on nsrec.ns.ca and WebForms. Licensees were required to fully transition to the updated forms by February 1, 2016. All unused copies of expired forms must be discarded.

The updated forms are:

- *Amendment to Seller/Buyer Brokerage/Designated Brokerage Agreement* - Form 220
- *Temporary Withdrawal or Termination of the Seller/Buyer Brokerage/Designated Brokerage Agreement* - Form 221
- *Property Disclosure Statement* - Form 211
- *Property Disclosure Statement for Vacant Land* - Form 212 (**NEW**)
- *Schedule of Leased/ Rented Equipment* - Form 210

The Schedule of Leased/ Rented Equipment form has changed significantly and we created an instruction sheet to assist you in completing the updated schedule. This instruction sheet is located directly below the schedule in [our website's bank of real estate forms](#).

**Tip:** To ensure you are using the updated forms, check the published date in the top right corner. The updated forms read **04/01/2016**.

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Licensees are also reminded that the forms released in May 2015 and made mandatory for use by July 2nd are to be used in place of older versions.

Check to see if you are using the correct form by comparing the date in the top right corner. The correct forms read:

Working with the Real Estate Industry - **04/13/15**

Seller Brokerage Agreement - **04/14/15**

Seller Designated Brokerage Agreement - **04/14/15**



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**Released:** Tuesday, January 19th, 2016

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JANUARY 2016 **SPECIAL EDITION**  
**Newsletter**



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HST Implementation	3
New Timeline for First-time Licence Applicants	3

**RELEASED TODAY**

our Special Edition Newsletter includes articles on important announcements and articles on topics such as:

- Commission Office Relocation
- Buyer Brokerage Agreements Mandated for Common Law
- Approved Sales Corporations Licensing Fees Changing
- HST Implementation
- What is kept in a Transaction File?

- Non Applicable Clauses on Agreements
- **and much more!**

[READ THE NEWSLETTER HERE](#)



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ENSURING CONSUMER  
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**In this Issue:**

- Commission  
December Holiday Hours
- Commission Office  
Relocation
- Updated Mandatory  
Forms



Want quick confirmation that someone is licensed to trade in real estate in Nova Scotia? [Use our tool.](#)

**Released:** Wednesday, December 9th, 2015

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## Commission December Holiday Hours

Staff and Commissioners wish all licensees and their families a safe and happy holiday, and the very best in 2016.

Please note the following office closures:

December 24th: **Closed at noon**

December 25th - January 1st, 2016: **Closed**

January 4th: **Open regular hours**

If you have an urgent matter for the Commission when the office is closed, you may contact either Brad Chisholm, Registrar, [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca) or Carolin MacDonald, Compliance Manager, [cmacdonald@nsrec.ns.ca](mailto:cmacdonald@nsrec.ns.ca).

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## Commission Office Relocation

As you may have read in a recent email from the Nova Scotia Association of REALTORS®, the Commission's Board of Directors have decided not to renew our lease at 7 Scarfe Court, Dartmouth. At the latest Board of Directors meeting, the Commissioners unanimously approved relocating our office in the spring of 2016 to the Bedford area. **More information on our relocation will be released early on in the New Year.**

---

## Updated Mandatory Forms

The Board of Directors recently approved updated versions of the following forms:

- **Amendment to Seller/Buyer Brokerage/Designated Brokerage Agreement** - Form 220
- **Temporary Withdrawal or Termination of the Seller/Buyer Brokerage/Designated Brokerage Agreement** - Form 221
- **Property Disclosure Statement** - Form 211
- **Property Disclosure Statement for Vacant Land** - Form 212 (**NEW**)
- **Schedule of Leased/ Rented Equipment** - Form 210
- Instruction Sheet on completing the new **Schedule of Leased/ Rented Equipment**

These forms have been provided to the NSAR for upload onto WebForms® and will be made available for download from the Commission's website as of January 4th, 2016. **Licensees are required to fully transition to using these updated forms by February 1, 2016. After that date, all unused copies of expired forms must be discarded.**

**Tip:** To ensure you are using the updated forms, check the published date in the upper right-hand corner. The updated forms read **04/01/16**.



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## **"20 Timely Topics for Salespeople"**

- **All licensees** are required to take ***one elective course\****

***\*Brokers, managing associate brokers and associate brokers may take the salesperson's mandatory as their elective requirement, and vice versa.***

Questions about the 2015/16 CPE requirements? [Contact us](#).

---

### **Mythbuster of the Month: Disciplinary action from the Commission, including fines, has no impact on me or my licence after it has been fulfilled.**

Disciplinary action does not disappear from our records after any sanctions, penalties, or education requirements are fulfilled by the licensee. A discipline history remains on file for three to five years, depending on the severity of the charges, and may be provided to members of the public or licensees (including brokers) upon request. For licensees who wish to obtain a real estate licence in another province, a discipline history forms part of the licensing application.

Ultimately, being compliant with the Real Estate Trading Act, its Regulations, the Commission Bylaw and Commission Policies is the best way to avoid disciplinary action. For full details on the publication of disciplinary decisions, see [Commission Bylaw 839](#).



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ENSURING CONSUMER  
CONFIDENCE THROUGH  
REAL ESTATE REGULATION

## Licence Suspension Notice

### Effective August 1st

The licence of the following industry member has been suspended for four (4) months for violating Real Estate Trading Act Section 22(1)(a) and (b), Commission Bylaw 702, Articles 11 and 34, and Commission Bylaw 708.

[Licence suspension details.](#)

References:

[Nova Scotia Real Estate Trading Act](#)  
[Commission Bylaw](#)

*This notice has been distributed to industry members in accordance with **Commission Bylaw 839.***



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## ENSURING CONSUMER CONFIDENCE THROUGH REAL ESTATE REGULATION

### In This Issue

- Commission Office Closure
- Welcome new Compliance Investigator
- New Discipline Newsletter

### Licensee Search

You can now find a licensee through our search on the main page of [nsrec.ns.ca](http://nsrec.ns.ca)

### View Previous Bulletins

Looking for previous bulletins?

View our [complete list of bulletins](#) or our [searchable, compiled bulletins](#).

**Released:** Monday, Jul 27th, 2015



The Commission's office will be **closed on Monday, August 3rd**, in observance of Natal Day.

We will reopen at 8:30 a.m. on August 4th.

The Commission wishes everyone a safe and enjoyable holiday.

---

## Welcome new Compliance Investigator

The Commission is pleased to welcome Michelle McLeod to our team as our Compliance Investigator.

Michelle brings to the position over 15-years experience in the Not for Profit and Education sectors supporting services for the provincial department of Labour and Advanced Education. With a Advanced Diploma in Human

Resources and a Bachelor of Arts in English from Saint Mary's University, Michelle will bring a high level of professionalism to her role.

The Commission welcomes Michelle to our organisation.

---

## Discipline Newsletter Released

The Commission has released our latest Discipline Newsletter. Disciplinary decisions are distributed to industry members in accordance with [\*\*Commission Bylaw 839\*\*](#).

[\*\*Read the Discipline Newsletter here.\*\*](#)



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## ENSURING CONSUMER CONFIDENCE THROUGH REAL ESTATE REGULATION

### In this issue

- Employment Opportunity: Compliance Investigator
- Advertising Bylaw in effect
- CPE Requirements

### Licence Search

Search for a licence holder by using our search tool at [www.nsrec.ns.ca](http://www.nsrec.ns.ca)

### Keep up with us



**Released:** Tuesday, Jun 02, 2015

### **Correction: Compliance Investigator Employment Opportunity**

The Commission is hiring a permanent, full-time Compliance Investigator, [read the full job description here](#)

Qualified applicants should send their coverletter, résumé and salary expectation by **4:00 p.m. on June 12, 2015.**

**[Bylaw 708\(d\)](#)**, which requires **all industry member advertising** to display the brokerage name or logo in same size or larger than the industry member name comes into effect **today**. Failing to comply with the new Bylaw may result in disciplinary action.



## Licence Renewals: Continuing Professional Education

**What do I need to complete my continuing professional education (CPE) requirement?**

[See Bulletin 192 for full details.](#)

**When must my CPE be completed?**

CPE requirements must be met by June 30th, 2015; failing to do so means that your licence will not be renewed and you will no longer be able to trade in real estate.

You will also be required to immediately remove all for-sale signs and advertising, including updating your social media employment status or fully removing your social media pages (LinkedIn, Facebook, Twitter, Instagram, Pinterest, etc.) and real estate websites. Be advised that failing to do so may result in disciplinary action.

**Can I terminate my licence before the renewal date?**

Yes. If you do not intend to remain in the industry, terminating your licence by the end of day on June 30th removes your name from the licence cancellation list that will be published on July 2nd, 2015. You may also post-date a termination form in Section C(a) for June 30th and deliver it to the Commission at any time prior to that date. [View the Notice of Termination Form](#)

Be aware that all previously licensed industry members returning to the industry within two years of terminating must complete any missed CPE prior to reapplying for a licence.

**I cannot complete my CPE on time, can keep my licence active?**

You may apply to the Commission for a licence extension which will keep your licence active for 30 days until July 31st, 2015, at which time your remaining required CPE courses must be completed.

At the end of the 30 days, if your CPE is not completed your licence will not be renewed and you must immediately stop all trading activities and advertising until such time as your CPE is complete and you reapply.

To apply for a licence extension, submit a completed *Licence Extension Form* with the \$1,000 extension fee by no later than noon on June 30th. The [form is available here](#) and at the Commission's office.

**I am a **Broker**, what do I need to know about advertising during renewals?**



As the broker is ultimately responsible for your brokerage's advertising and that of your industry members, it is important that you ensure all advertising for industry members who have not renewed their licences is removed prior to July 1st. Failing to do so may result in disciplinary action.

The Commission will be reviewing the advertising activity of newly expired licence holders, including online advertising and social media sites, to ensure compliance with the Real Estate Trading Act and Commission Bylaw. Be aware that some sites require several days for changes to be made, therefore be mindful and allow yourself sufficient time to process the request. Should you encounter issues with removing advertising in time, including for reasons out of your control, please notify the Commission's [Compliance Team](#) immediately.

Click the following for information on how to change profile settings on [Facebook](#), [Twitter](#) and [LinkedIn](#).

---

### **Do you have other questions about the renewal process?**

Contact Pam Crane, Licensing Officer, at  
902-468-3511 x304/800-390-1015 x304  
or via email at [pcrane@nsrec.ns.ca](mailto:pcrane@nsrec.ns.ca).

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## ENSURING CONSUMER CONFIDENCE THROUGH REAL ESTATE REGULATION

### In this issue

- New Mandatory Forms
- Reminder: Advertising Bylaw comes into effect June 1st

### Licence Search

We have a new licence search function on our website, view it at [www.nsrec.ns.ca](http://www.nsrec.ns.ca)

### Keep up with us



**Released:** Friday, May 08, 2015

### Updated Mandatory Forms



**We are aware that as of now the updated forms have not yet been made available by the NSAR on WebForms. The industry will be notified when they are made available.**

Updated versions of the *Working With...* form (formerly brochure), the *Seller Brokerage Agreement* and the *Seller Designated Brokerage Agreement* are now available through the Commission on [nsrec.ns.ca](http://nsrec.ns.ca). Physical copies are available for purchase at the NSAR office.

All industry members must transition to using these updated forms by **July 2nd, 2015**. After that date, all unused copies of expired forms must be destroyed.

**Tip:** To ensure if you are using the updated forms, check the published date in the upper right-hand corner. The updated forms read April 2015.

---

Bulletin 197, released on January 7th, 2015, advised of a change to [Bylaw 708\(d\)](#) which requires **all industry member advertising** to display the brokerage name or logo in same size or larger than the industry member name. All advertising is must comply by **June 1st, 2015**.



Industry members are reminded of this deadline and encouraged to review current advertising to ensure it complies with the new Bylaw. Failing to comply may result in disciplinary action.

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## ENSURING CONSUMER CONFIDENCE THROUGH REAL ESTATE REGULATION

### In This Issue

- Licence Restriction
- New Mandatory Forms
- Reminder: Advertising Bylaw comes into effect June 1st

### Licence Search

We have a new licence search function on our website, view it at [www.nsrec.ns.ca](http://www.nsrec.ns.ca)

### Keep Up With Us



Facebook



Twitter

**Released:** Monday, May 04th, 2015

### Notice: Licence Restriction

**Effective immediately**, a broker has had their licence restricted to an associate broker licence following five consecutive *needs improvements* audit results. [See full details here](#).

### Updated mandatory forms available May 8th, 2015



Updated versions of the *Working With...* form (formerly brochure), the *Seller Brokerage Agreement* and the *Seller Designated Brokerage Agreement* will be made available by NSAR in hard copy and on WebForms and by the Commission on [nsrec.ns.ca](http://nsrec.ns.ca) on **May 8th, 2015**.

All industry members must transition to using these updated forms by **July 2nd, 2015**. After that date, all unused copies of expired forms must be

destroyed.

**Tip:** To ensure if you are using the updated forms, check the published date in the upper right-hand corner. The updated forms read April 2015.

---

Bulletin 197, released on January 7th, 2015, advised of a change to [Bylaw 708\(d\)](#) which requires **all industry member advertising** to display the brokerage name or logo in same size or larger than the industry member name. All advertising is must comply by **June 1st, 2015**.



Industry members are reminded of this deadline and encouraged to review current advertising to ensure it complies with the new Bylaw. Failing to comply may result in disciplinary action.

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ENSURING CONSUMER  
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REAL ESTATE REGULATION

RELEASED: 24/04/15

## Be a part of self-regulation!

Volunteer for one of our committees or focus groups

The Commission is looking for volunteers to serve on our committees and also to participate in focus groups to improve mandatory forms and Commission processes.

Which committees need volunteers?

Our Licensing, Complaints Review, Discipline, Commercial and Form Committees all require volunteers.

What does serving on a committee entail?

Serving on one of our committees provides excellent learning opportunities while allowing you to be a part of the important regulatory process. As a member of the Licensing or Complaints Review Committees, you are required to attend a minimum of four meetings per year as well as additional time spent reviewing committee documents prior to the meetings, which can be significant in the case of the Complaints Review Committee. As a member of the Discipline Committee, you may be called upon during the year to serve as a member of a hearing panel, which may require one to three days for a hearing and additional time writing the hearing panel decision. [All committee volunteers serve one-year terms.](#)

Who is eligible to serve on a committee?

To apply, you must be an industry member in good standing. What constitutes good standing? See [Bylaw 255](#).

How do I put my name forward to serve on a committee?

Those interested can email [sarahhill@nsrec.ns.ca](mailto:sarahhill@nsrec.ns.ca) with "Committee Volunteer" in the subject line. In the body of the email, briefly explain;

- your name, brokerage and number of years licensed;
- which committee(s) you wish to become a member of;
- experience and/or credentials that you feel would make you a good fit for the committee; and
- why you would like to volunteer with the Commission.

All applications must be received by Friday, May 15th, 2015.

How do I put my name forward to participate in a focus group?

Those interested can email [sarahhill@nsrec.ns.ca](mailto:sarahhill@nsrec.ns.ca) with “Focus Group Volunteer” in the subject line.

Volunteers for focus groups may apply at any time and participants will be contacted on an as-needed basis as focus groups are organized.



I volunteer on the Forms Committee because I strongly believe that in order to make changes happen, you have to take an active part. I enjoy the discussions generated with viewpoints that differ from my own. For the 3-4 hours per month of my time it takes, it is the least I can do to try and make a difference.

- Carol Alexander, Forms Committee

Committees are one of the most overlooked training resources available to us all.

Volunteering takes very little time per month and is one of the few ways one can actively give back to a organization that has provided me with



A reminder to industry members that CPE requirements must be completed by June 30th, 2015, in order to process your renewal. Failing to complete CPE prior to the deadline will result in your licence being terminated.

Industry members may choose to terminate their licence prior to the annual renewal date.

Upon termination, for any reason, all advertising (including all online advertising) must be immediately removed or you and your Broker may be

such a great occupation.

- Alex Astbury, Licensing Committee

The Complaints Review Committee gets some of my time and effort, four times a year. The return is tenfold; a hands-on education, a quality understanding of real issues, and an appreciation for the NSREC and why things work the way they do.

- Peter Fraser, Complaints Review Committee

subject to disciplinary action.

For information on what CPE you require, [see Bulletin 192](#).



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We send email updates to licensed industry members and stakeholders. These important updates are intended to inform licensed industry members on specifics of the Real Estate Trading Act, Regulations and the Commission's Bylaw, and may include additional topical information relating to real estate regulation.

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Canada

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ENSURING CONSUMER  
CONFIDENCE THROUGH  
REAL ESTATE REGULATION

#### In This Issue

- AGM: Thank you
- Welcome to new Commissioners
- Thank you to outgoing Commissioners

#### New Licence Search

We have a new licence search on our website. See it at [www.nsrec.ns.ca](http://www.nsrec.ns.ca)

#### Keep Up With Us



[Facebook](#)



[Twitter](#)

**Released:** Friday, Apr 17th, 2015

### **Annual General Meeting: Thank you!**

We are happy to note that we had a record turnout at our Annual General Meeting this morning. Thank you to all who attended.

---

### **Welcome to new Commissioners**

This morning, industry members elected Anthony Brown of Exit Realty Metro to the Commission's Board of Directors. Mary MacDonald of Walt MacDonald Real Estate was also appointed to the Commission by NSAR as per Bylaw 209(a).

We welcome both Mary and Anthony to our Board of Directors.

---

### **Thank you to outgoing Commissioners**

We would like to sincerely thank our outgoing Commissioners, Paul Doucet and Charlie Pace, for their service to the Commission. We wish them all the best in their future endeavours.

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ENSURING CONSUMER  
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REAL ESTATE REGULATION

#### In This Issue

- Proxy Voting Forms
- Nominees for Election

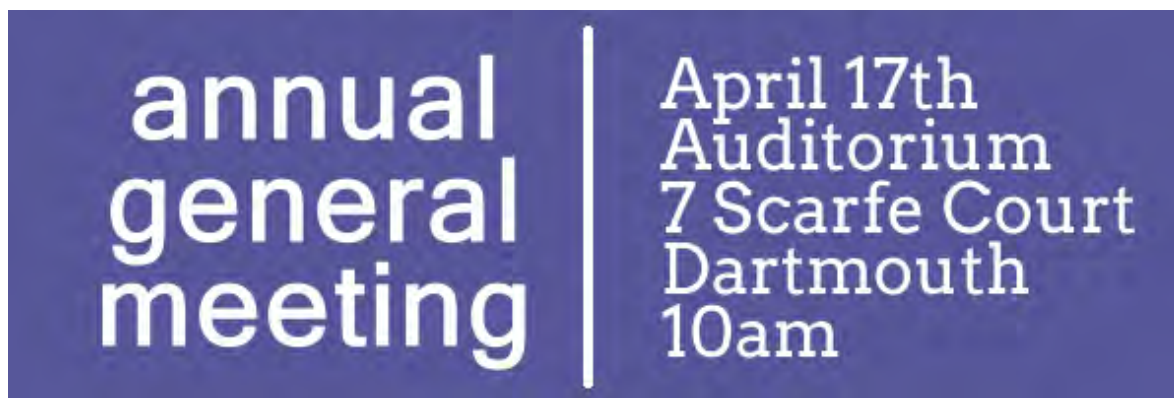
#### New Licence Search

We have added a new licence search on our website. View it at [www.nsrec.ns.ca](http://www.nsrec.ns.ca)

#### Keep Up With Us



**Released:** Tuesday, Apr 14th, 2015



#### **Proxy Voting Forms: Due Today!**

If you cannot attend our AGM and would like another industry member to cast a ballot on your behalf, complete the proxy form and scan/email it to Pam Crane ([pcrane@nsrec.ns.ca](mailto:pcrane@nsrec.ns.ca)) or fax at 902-468-1016/800-390-1016.

**Proxy forms must be received by the Commission's office no later than 4pm today.** Late forms will not be accepted.

**[Download the Proxy Voting Form here](#)**

## The nominees are...

**Anthony Brown** - Exit Realty Metro

**Mary Clark** - Bryant Realty Atlantic

**Al Demings** - RE/MAX Nova

**Marc Doucet** - Royal LePage Atlantic

**[Click here to read short biographies of each of the four nominees.](#)**

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ENSURING CONSUMER  
CONFIDENCE THROUGH  
REAL ESTATE REGULATION

#### In This Issue

- Office Closure: AGM
- Announcement: Staff Departure
- Proxy Voting and Free Renewal Draw
- Updated Designated Agency FAQs

#### New Licensee Search

We have added a new licensee search on our website. View it at [www.nsrec.ns.ca](http://www.nsrec.ns.ca)

You can now find the Commission on:

 [Like us on Facebook](#)

 [Follow us on Twitter](#)

**Released:** Friday, Apr 10, 2015

### **Office Closure Notice: Annual General Meeting**

The Commission's office will close at 10am on Friday, April 17th for our Annual General Meeting. Our office will reopen immediately following the adjournment of the meeting.

---

### **Announcement: Staff Departure**

Susan Best, Compliance Investigator, has decided to pursue a new career opportunity and will be leaving the Commission.

Sue joined us in December 2008 as Compliance Auditor and later moved to the role of Compliance Investigator.

We wish her well in her future endeavors.

---

## Commission AGM: Proxy Voting & Licence Renewal Draw

Industry members are advised that registration for AGM opens at 9am on Friday, April 17th. Those carrying proxies are recommended to arrive by 9:30am. Proxy application forms must be received by the Commission by no later than 4pm on Tuesday, April 14th. Late proxy forms will not be accepted.

**Download the proxy application form here** (page 2)

Did you enter our draw for one of two free licence renewals? We will be drawing the two winners at our AGM, if you are unable to attend follow us on Twitter ([@ns\\_rec](#)) to see who wins!

---

## Updated: Designated Agency FAQs

We have recently updated our Designated Agency FAQs with new Q&As. The new additions are listed in grey. **See the full document here.**

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# nova scotia real estate COMMISSION

News Bulletin 202 • April 1, 2015

## CLOSURE NOTICE

The Commission office will be closed on Friday, April 3rd and Monday, April 6th for the Easter holiday.

## 2014 ANNUAL REPORT

The Commission is pleased to release its 2014 Annual Report to the industry. A significant amount of work was put forth in 2014 to progress our strategic plan, which includes improving industry standards and communications practices as well as the updating the Real Estate Trading Act.

[Read the 2014 Annual Report here](#)

Join us for our Annual General Meeting (AGM) where we will discuss the successes and challenges of 2014 and what is ahead for the Commission in 2015.

**When:** Friday, April 17th

**Time:** 10:00am

**Where:** Auditorium at 7 Scarfe Court in Burnside

## AND THE NOMINEES ARE...

Four industry members have been nominated to fill one vacancy on our Board of Directors.

[View profiles for the four nominees here](#)

## HOW DO I VOTE FOR ONE OF THE NOMINEES?

You may vote in person at the AGM or by proxy vote. **Proxy voting** permits you to appoint another industry member, who will be attending the AGM, to vote on your behalf.

**The Proxy Voting Form is located on the next page of this News Bulletin.**

## WHAT DO I NEED TO KNOW ABOUT CARRYING PROXIES?

- Industry members may carry a **maximum of two proxy voting forms**.
- If you carry a proxy voting form for another industry member, it is recommended that you arrive at the AGM 30 minutes in advance.
- Proxies **must** be faxed (902-468-1016/1-800-390-1016), emailed ([pcrane@nsrec.ns.ca](mailto:pcrane@nsrec.ns.ca)) or personally delivered to the Commission office **before 4:00p.m. on Tuesday, April 14th, 2015**.
- You will receive a verification email from the Commission within 24 hours of submitting the form confirming we have received your proxy voting form. If you do not receive a verification email by noon on Thursday, April 16th, contact Pam Crane directly at 902-468-3511 ext. 304.



## Proxy Voting Form

Complete this form to vote by proxy  
in the election for a Commissioner

Only the undersigned can appoint his/her voting delegates. (please print)

The undersigned: \_\_\_\_\_

Hereby appoints: \_\_\_\_\_

Or if he/she is unable to attend: \_\_\_\_\_

As the proxy on my behalf at:

**The Nova Scotia Real Estate Commission Annual General Meeting  
in the auditorium at 7 Scarfe Court, Dartmouth, April 17, 2015 at 10:00 a.m.**

And at any adjournment thereof in the same matter, to the same extent and with the same power as if the undersigned were present at the said meeting or such adjournment thereof.

I understand that no voting delegate can carry more than two (2) proxy votes.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 2015.

\_\_\_\_\_  
Signature of eligible voting industry member

\_\_\_\_\_  
Printed name of eligible voting industry member

\_\_\_\_\_  
Brokerage

**IMPORTANT: to carry a proxy, you must fax (902-468-1016/1-800-390-1016), email (pcrane@nsrec.ns.ca) or personally deliver the completed proxy form to the Commission office by 4:00 p.m. on Tuesday, April 14th, 2015. You will receive a verification email within 24 hours of receipt of your proxy. If you do not receive a verification email by noon on Thursday, April 16th, contact Pam Crane directly at ext. 304.**

**Proxy forms will not be accepted after the deadline.**

**If you are carrying a proxy for another industry member it is recommended that you arrive at the AGM 30 minutes in advance to assist us in registering attendees as fast as possible.**





# nova scotia real estate COMMISSION

News Bulletin 201 • March 6, 2015

## NSREC WELCOMES NEW COMPLIANCE INSPECTORS

The Commission is pleased to announce the hiring of Mallory LeBlanc and Crystal Yeo, both of whom are filling the advertised Compliance Inspector vacancies.

Mallory has accepted a permanent position with the Commission's compliance team and brings with her a Bachelor degree in Commerce from Saint Mary's University and a background in the insurance industry. A true team player, Mallory referees local soccer matches in her spare time and is an avid angler.

Crystal is filling a maternity leave vacancy for Courtney LeBlanc who will be leaving the Commission temporarily in May. Crystal comes to us with experience in the legal profession and until recently was a licensed industry member with 12 years' experience as a broker. She has also taught education courses at NSAR for five years. She is a mother of two girls and enjoys spending her time outdoors amid the beautiful Nova Scotian landscapes.

Both officially joined us on March 2nd and are already proving to be valuable additions to our organisation.

The Nova Scotia Real Estate Commission welcomes both Mallory and Crystal to our organisation.

## NSREC COMMISSIONERS CALL FOR NOMINATIONS

**CORRECTION:** Bulletin 200 incorrectly indicated that all nominations must be received by March 29th. The correct due date is **March 18th**. We apologize for any inconvenience this error may have caused.

The Commission invites interested licensed industry members to nominate themselves to fill **one** three-year term with the Commission's Board of Directors, by completing the attached form (*next page*).

The election to fill this vacancy will take place at the Commission's Annual General Meeting on **April 17th**, 2015, at 10 a.m. in the auditorium at 7 Scarfe Court in Dartmouth. RSVP at [agm@nsrec.ns.ca](mailto:agm@nsrec.ns.ca)

Industry members must be in good standing to be eligible to be nominated. Good standing requires the nominee to have not been found guilty of violating the Commission's Act, Bylaw or Regulations, or the code of conduct of a real estate board/association during the past two years.

The Commission Board of Directors meet five times per year and the newly elected Commissioner has the opportunity to serve on other Commission committees.

If you have questions about the application requirements, election process or time commitment involved, please contact Peggy Kell at [pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca).

## NOVA SCOTIA BARRISTERS' SOCIETY SEEKING PUBLIC NOMINATIONS

**The Nova Scotia Barristers' Society** invites interested industry members to submit an application to be a Public Representative of its governing body. Two vacancies will be filled in May, for a two-year renewable term commencing June 13, 2015. The Society encourages applications from members of the province's diverse racial and cultural communities. Those with business experience are also urged to apply by March 16. Visit the Society's website for a position description and more details:

<http://bit.ly/1EuCgGT>

# Commissioner Nomination Form



**DEADLINE: 4:00 p.m. on March 18, 2015**

Return this form fully completed by:

**Mail:** 7 Scarfe Court,  
Dartmouth, NS, B3B 1W4

**Fax:** 902-468-1016 (or toll-free 1-800-390-1016)

**Email:** To Peggy Kell at [pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca)

***Incomplete forms will be returned.***

I, \_\_\_\_\_, licensed as a \_\_\_\_\_ with  
\_\_\_\_\_ (brokerage) in the city/town of  
\_\_\_\_\_ consent to being nominated for election as a Commissioner of the  
Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Commission or a real estate  
board or association during the last two years. I authorize the Commission to release my name as a nominee to the  
industry and, if elected, I agree to serve.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

The industry members signed below nominate the above industry member for election to the Nova Scotia Real Estate Commission (must be signed by ten current industry members):

<i>Name (please print)</i>	<i>Signature</i>	<i>Brokerage</i>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

# nova scotia real estate COMMISSION

News Bulletin 200 • February 26, 2015

## NSREC ANNUAL GENERAL MEETING

The Commission invites all licensed industry members to join us for our Annual General Meeting on **Friday, April 17th, 2015, at 10 a.m.** in the auditorium at 7 Scarfe Court in Dartmouth.

Join us to discuss the progress and achievements made in 2014 and what is ahead for the Commission in 2015.

RSVP by Friday, April 10th at [agm@nsrec.ns.ca](mailto:agm@nsrec.ns.ca).

## CPE REMINDER

All industry members are reminded that annual continuing professional education requirements must be completed by **June 30th, 2015**. See Bulletin 192 for detailed information on this year's requirements.

Failing to meet these requirements means that **your licence will not be renewed on July 1st** and you will consequently **no longer be able to trade** in real estate.

You will also be required to immediately remove all for-sale signs and advertising, including taking down your websites and social media pages, including (but not limited to) LinkedIn, Facebook, Twitter, Instagram and Pinterest. Your brokerage contracts must also be assigned to other industry members at the brokerage, and you cannot solicit new business.

## NSREC COMMISSIONERS CALL FOR NOMINATIONS

The Commission invites interested licensed industry members to nominate themselves to fill one three-year term with the Commission's Board of Directors, by completing the attached form (*next page*).

The election to fill this vacancy will take place at the Commission's Annual General Meeting on April 17th, 2015, at 10 a.m. in the auditorium at 7 Scarfe Court in Dartmouth.

Industry members must be in good standing to be eligible to be nominated. Good standing requires the nominee to have not been found guilty of violating the Commission's Act, Bylaw or Regulations, or the code of conduct of a real estate board/association during the past two years.

The Commission Board of Directors meet five times per year and the newly elected Commissioner has the opportunity to serve on additional Commission committees.

If you have questions about the application requirements, election process or time commitment involved, please contact Peggy Kell at [pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca).

Join us at the Nova Scotia Association of REALTORS®  
Symposium and AGM on March 6th and 7th.

Visit our booth on the 6th and enter our draw for a chance to  
win **one of two free licence renewals\*** (\$330 value each)!

\*free licence renewal does not include Recovery Fund fee

# Commissioner Nomination Form



**DEADLINE:** 4:00 p.m. on March 29, 2015

Return this form fully completed by:

**Mail:** 7 Scarfe Court,  
Dartmouth, NS, B3B 1W4

**Fax:** 902-468-1016 (or toll-free 1-800-390-1016)

**Email:** To Peggy Kell at pkell@nsrec.ns.ca

***Incomplete forms will be returned.***

I, \_\_\_\_\_, licensed as a \_\_\_\_\_ with  
\_\_\_\_\_ (brokerage) in the city/town of  
\_\_\_\_\_ consent to being nominated for election as a Commissioner of the  
Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Commission or a real estate  
board or association during the last two years. I authorize the Commission to release my name as a nominee to the  
industry and, if elected, I agree to serve.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

The industry members signed below nominate the above industry member for election to the Nova Scotia Real Estate Commission (must be signed by ten current industry members):

<i>Name (please print)</i>	<i>Signature</i>	<i>Brokerage</i>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____



# nova scotia real estate COMMISSION

News Bulletin 199 • January 19, 2015

## IMPORTANT INFORMATION FOR INDUSTRY MEMBERS ON THE USE OF ELECTRONIC SIGNATURES

Software to secure an electronic signature may be used on any service contracts or purchase agreements, however, the Commission does not promote, prefer or otherwise endorse a particular brand of electronic signature software. The **broker is directly responsible** to verify that any electronic signature service used to produce signatures on agreements, in the eyes of the law, creates **legally binding service agreements** and **legally binding agreements of purchase and sale** for real estate. Failure to do so could result in disciplinary action. The Commission recommends that brokers seek independent legal advice as part of this verification process.

If the brokerage chooses to make an electronic signature service available to their clients, **the brokerage must retain printed copies of all signed agreements and acknowledgements** (i.e. Certificate of Authenticity) which includes the e-signature of a client or customer of the brokerage. It is not necessary for the brokerage to retain certificates from cooperating brokerages provided it is agreed that it represents a legal signature. These documents must be retained in the brokerage transaction file as per the Commission's document retention requirements in Bylaw 621, 707 and the [Electronic Document Storage Policy](#).

[See the Commission's Bylaw here for reference.](#)

For further information on electronic signatures, contact [compliance@nsrec.ns.ca](mailto:compliance@nsrec.ns.ca).

### **Mythbuster of the Month: Social media pages and blogs only require the industry member's name and photo to be compliant with the Commission**

All industry members' social media pages (including, but is not limited to, Facebook pages and profiles on Twitter, Instagram, LinkedIn and Pinterest) and blogs used as advertising must prominently display the full industry member name and full brokerage name (which must be the same size or larger than the industry member's name or team name, if applicable) in order to be compliant with the Act and Bylaw.

Failing to do so may result in disciplinary action.

# nova scotia real estate COMMISSION

News Bulletin 197 • January 7th, 2015

## EMPLOYMENT OPPORTUNITY: COMPLIANCE INSPECTOR (PERMANENT), DARTMOUTH

The Commission Board of Directors recently approved hiring a **full-time, permanent Compliance Inspector in addition to the Maternity Leave position [here](#).**\*

### About Us

The Nova Scotia Real Estate Commission is the regulator of the real estate industry, whose goal is to ensure consumer confidence through the administration of the Real Estate Trading Act and the Commission Bylaw.

### About the Opportunity

Reporting to the Compliance Manager, the Compliance Inspector is responsible for scheduling and conducting on-site (brokerage office) and in-house inspections of real estate brokerage trust accounts, trust account records and overall trading practices.

### Responsibilities

- Conduct compliance inspections, prepare reports and communicate results.
- Respond to compliance inquiries from industry members.

**[See the full job description here.](#)**

**Deadline to apply is Thurs, January 29th at 4:00 p.m.**

*\*Applicants who have previously applied for the Maternity Leave position and wish to be considered for the permanent position may indicate so by emailing Carolin MacDonald at [cmadonald@nsrec.ns.ca](mailto:cmadonald@nsrec.ns.ca) and using the subject line "Add to Permanent Opening Candidates".*

## NOTICE TO INDUSTRY MEMBERS ON IMPORTANT BYLAW CHANGES

### AMENDMENT TO BYLAW 708(D) REGARDING ALL ADVERTISING

**Effective immediately\***, Bylaw 708(D) requires that the brokerage name or logo be the same size or larger than any individual industry member name(s) and/or logo in all advertising (includes signage).

\*Regarding any advertising in current use, industry members have **until June 1, 2015** to comply with the Bylaw.

### AMENDMENT TO BYLAW 321(F) REGARDING EXAMINATIONS

**Effective July 1, 2015**, students may now write a maximum of one supplemental examination after failing their initial examination. If not successful on the second attempt, the student must re-take and complete the approved licensing course prior to writing a further exam. This may not be written sooner than one year from the last exam attempt.



# nova scotia real estate COMMISSION

News Bulletin 196 • December 19, 2014

## NSREC HOLIDAY HOURS

Staff and Commissioners wish all industry members a safe and happy holiday and the very best in 2015.

Please note the following office closures:

December 24th: **Closed at noon**

December 25th - January 1st, 2015: **Closed**

January 2nd: **Open**

If you have an urgent matter over the holidays, please contact one of the following:

**Brad Chisholm**, Registrar, [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca)

**Carolyn MacDonald**, Compliance Manager,  
[cmacdonald@nsrec.ns.ca](mailto:cmacdonald@nsrec.ns.ca)

## EMPLOYMENT OPPORTUNITY: COMPLIANCE INSPECTOR (MATERNITY LEAVE)

**NOTE:** The deadline to apply for this position **has been extended** to **Monday, January 12th** at 4:00 p.m.

Reporting to the Compliance Manager, the Compliance Inspector is responsible for scheduling and conducting on-site (brokerage office) and in-house inspections of real estate brokerage trust accounts, trust account records and overall trading practices. **This is a 14-16 month maternity leave vacancy contract.**

See the [full job description here](#).

## REMINDER: LICENSING REQUIREMENTS CHANGING IN JANUARY 2015

### COMPLETING MISSED CPE PRIOR TO REINSTATEMENT

Industry members that terminate their licence have up to two years to reinstate their licence.

Effective **January 1st, 2015**, industry members that leave the industry must now complete their continuing professional education requirements **before** becoming eligible for licence reinstatement.

### FINAL EXAM REVIEW

Effective **January 3rd, 2015**, we will no longer hold exam review sessions for unsuccessful writers. The **final review** is scheduled for **January 2nd, 2015**, at 2:30 p.m. at the Commission's office at 7 Scarfe Court in Dartmouth.



# nova scotia real estate COMMISSION

News Bulletin 195 • December 11, 2014



## SOULS HARBOUR RESCUE MISSION

The Commission is collecting donations for Souls Harbour Rescue Mission's **Operation Christmas Stocking** program; including toiletries, warm items for the winter, gum and candies, small sewing kits, small address books, movie passes, bus tickets, gift certificates for coffee, etc.

**Drop off a donation for Souls Harbour at our office (7 Scarfe Court, Dartmouth) by December 19th**

**NOTE:** Please do not include anything that contains alcohol or gift certificates to any place that sells alcohol, breakable items, medicines (Tylenol, cough drops, etc.) cosmetics or used items of any kind.

## EMPLOYMENT OPPORTUNITY: COMPLIANCE INSPECTOR (MATERNITY LEAVE)

This is a re-post of a new employment opportunity with the Nova Scotia Real Estate Commission. Feel free to share amongst your office. Please follow the instructions at the end of the description on how to apply.

Reporting to the Compliance Manager, the **Compliance Inspector** is responsible for scheduling and conducting on-site (brokerage office) and in-house inspections of real estate brokerage trust accounts, trust account records and overall trading practices. **This is a 14-16 month maternity leave vacancy contract.**

### Responsibilities

- Conduct compliance inspections, prepare reports and communicate results.
- Respond to compliance inquiries from industry members.

### Qualifications

- A post-secondary education, preferably in business administration or commerce, is required. An equivalent combination of training and experience may be accepted.
- Strong analytical skills, attention to detail and the ability to deal with sensitive issues and confidential information.
- Familiarity with, and ability to apply, provincial legislation and policy.
- Excellent interpersonal and communication skills.
- Able to work independently and to schedule and conduct inspections with minimum supervision.
- Hold a valid driver's licence and a reliable vehicle.

### Assets

- Compliance inspection experience.
- Experience in the real estate industry or familiarity with the Nova Scotia Real Estate Trading Act.
- Experience dealing with real estate contracts.

### Benefits

This is a salaried position with on-the-job training and mileage/travel expense reimbursement.

Qualified applicants should send their cover letter, résumé and salary expectations to the address indicated below by **4:00 p.m. on December 19, 2014:**

Carolyn MacDonald, Compliance Manager  
Nova Scotia Real Estate Commission  
7 Scarfe Court, Ste. 200  
Dartmouth, NS B3B 1W4

via fax at 902-468-1016 or via email at:  
cmacdonald@nsrec.ns.ca

*We thank all who apply, however only those under consideration will be contacted*





# nova scotia real estate COMMISSION

News Bulletin 194 • November 14, 2014

## AN IMPORTANT NOTICE TO INDUSTRY MEMBERS ON NSREC MANDATORY COURSES FOR THE 2014/15 LICENSING CYCLE

A full-day course for commercial industry members is being held on November 24th, 2014 by the Nova Scotia Association of REALTORS® education department, which includes a **half-day on agency** and a **half-day commercial forum**. This is the only course of its kind that will be held in the 2014/15 licensing cycle.

This course is a mandatory CPE option for all licence classes that practice commercial real estate **only**. A signed, Commission approved declaration stating that the industry member practices solely in commercial real estate **must be provided to the Commission in order to register**.

### [Download the declaration](#)

This full-day course is also open to industry members who practice commercial and/or residential real estate\*. In these cases, the course will not count towards the 2014/15 CPE requirements and the participant will not be required to provide a declaration.

*\*All brokers, managing associate brokers and associate brokers who practice commercial and/or residential real estate are also required to take the broker mandatory course to fulfill their 2014/15 CPE requirements. For full information, see [Bulletin 192](#).*



nova scotia real estate  
**COMMISSION**

Bulletin 193 • November 10, 2014

## **NOTICE TO INDUSTRY MEMBERS ON IMPORTANT BYLAW AND POLICY CHANGES**

### **BROKERAGE MANUALS**

Effective immediately, brokerage manuals are only available upon request at a reduced cost of \$50. In its place, a new Commission Virtual Brokerage Manual can be found at [www.nsrec.ns.ca/NSRECVirtualBrokerageManual.html](http://www.nsrec.ns.ca/NSRECVirtualBrokerageManual.html)

### **AMENDMENT TO BYLAW 317**

Industry members that terminate their licence have up to two years to reinstate their licence. Effective January 1st, 2015, industry members that leave the industry must now complete their continuing education requirements before becoming eligible for licence reinstatement.

### **REPEAL OF BYLAW 321(H)**

Effective January 3rd, 2015, the Commission will no longer hold exam review sessions for unsuccessful writers. The final review is scheduled for January 2nd, 2015, at 2:30p.m. at the Commission's office at 7 Scarfe Court in Dartmouth.

### **AMENDMENT TO BYLAW 313**

Effective July 1st, 2015, applicants for licensing who are first-time salespeople or an industry member who is unlicensed for two or more years must provide an official high school transcript indicating a successful completion of Grade 12, or an equivalent acceptable to the Registrar, when applying to be licensed.

*Contact the Commission at any time with questions regarding the information above at 902-468-3511/800-390-1015 or [licensing@nsrec.ns.ca](mailto:licensing@nsrec.ns.ca)*

# nova scotia real estate COMMISSION

News Bulletin 192 • September 16, 2014

## 2014-15 Licensing Requirements

The following are the continuing professional education requirements for the 2014-15 licensing cycle.

### If you currently trade in...

	Residential Real Estate	Commercial Real Estate	Both Residential & Commercial Real Estate
<b>Broker</b>  <b>Managing Associate Broker</b>  <b>Associate Broker</b>	<ul style="list-style-type: none"> <li>Broker mandatory course</li> <li>Agency course specific to your brokerage's agency model               <ul style="list-style-type: none"> <li>&gt; designated agency course</li> <li>&gt; common-law course</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Broker mandatory course and <b>ONE</b> of the following;</li> <li>Agency course specific to your brokerage's agency model               <ul style="list-style-type: none"> <li>&gt; designated agency course</li> <li>&gt; common-law course</li> </ul> </li> <li>Full-day mandatory course on November 24th, 2014, including; a half day on agency and a half day commercial forum*</li> <li>Commercial equivalent course**</li> </ul>	<ul style="list-style-type: none"> <li>Broker mandatory course</li> <li>Agency course specific to your brokerage's agency model               <ul style="list-style-type: none"> <li>&gt; designated agency course</li> <li>&gt; common-law course</li> </ul> </li> </ul>
<b>Salesperson</b>	<ul style="list-style-type: none"> <li>Agency course specific to your brokerage's agency model               <ul style="list-style-type: none"> <li>&gt; designated agency course</li> <li>&gt; common-law course</li> </ul> </li> </ul>	<b>ONE</b> of the following; <ul style="list-style-type: none"> <li>Agency course specific to your brokerage's agency model               <ul style="list-style-type: none"> <li>&gt; designated agency course</li> <li>&gt; common-law course</li> </ul> </li> <li>Full-day mandatory course on November 24th, 2014, including; a half day on agency and a half day commercial forum*</li> <li>Commercial equivalent course**</li> </ul>	<ul style="list-style-type: none"> <li>Agency course specific to your brokerage's agency model               <ul style="list-style-type: none"> <li>&gt; designated agency course</li> <li>&gt; common-law course</li> </ul> </li> </ul>

\*A signed, Commission approved, declaration stating that the student practices solely in Commercial real estate must be provided to the Commission order to register for the full-day mandatory course. You may find that declaration [on our website](#).

\*\*Commercial equivalent courses must be pre-approved by the Licensing Committee or the Commission. **For information on how to receive pre-approval**, contact **Pam Crane, Licensing Officer**, at [licensing@nsrec.ns.ca](mailto:licensing@nsrec.ns.ca) or 902-468-3511 x304.

## New Designated Agency FAQs available

The Commission has developed a new **Frequently Asked Questions on Designated Agency**. This document covers, among other topics; confidentiality, forms & agreements, brokerages changing agency models and teams practicing designated agency. You may find the FAQs [on our website](#).

## Mythbuster of the Month: The Commission Bylaw includes a rule stating that brokers cannot release trust funds until 10 days after funds have been deposited.

The Commission does not have a rule of this nature. Trust funds may take less or more time to clear, it is up to the broker to confirm with their bank to ensure funds have cleared.



### Team remuneration is paid from the brokerage only

When the Teams Taskforce was struck last year, one of the duties of the taskforce was to look at **remuneration of teams**, specifically, whether commissions could be paid directly to one team member who would then pay the other team members.

The taskforce reviewed the issue of team compensation extensively, by; seeking input from Canadian and American jurisdictions, reviewing relevant case law, and obtaining legal opinions. The taskforce found that compensation must flow from the brokerage to the individual industry members or the individual approved sales corporations. **Remuneration cannot be paid to a member of the team and then distributed to the team members.**

All service contracts are between the consumer and the brokerage. The industry members licensed with the brokerage are not parties to any contracts entered into between them on behalf of the brokerage and the consumers who have engaged the brokerage services. A review of applicable case law also demonstrated that industry members are only entitled to compensation from the brokerage with which they are licensed.





# nova scotia real estate COMMISSION

News Bulletin 191 • August 29, 2014

## Office closed on Labour Day

The Commission office will be closed on **Monday, September 1st** for **Labour Day**.  
The Commissioners and staff wish everyone a safe and happy Labour Day weekend.

## Attention Brokers: New licence applicants require proper identification

September is upon us and with the salesperson course coming up the licensing department would like to notify brokers of the growing trend of graduates coming in to apply for their licence without the proper identification.

When providing the Schedule A to your future employee, please take a moment to highlight the required identification to be provided; **Nova Scotia Drivers Licence or a Nova Scotia Adult Identification Card and birth certificate.**

In the event that an applicant is not a native of Canada, a citizenship card/certificate or permanent resident card **and** passport will be accepted in place of the birth certificate. **We appreciate your help and cooperation** in this matter.

## Welcome new committee members

Each year, the Commission asks for volunteers to take on a year-long term on our Licensing, Complaints Review, Commercial and Discipline Committees, and each year there are far more volunteers than there are seats. **This year was no exception.** When the committees are appointed in

July, the committee chairs select several new members and several existing members. This way, the committee brings new industry members to the table while maintaining an understanding of the progress made in the previous year.

**The Commission and its committee chairs thank all industry members who put their names forward** and encourage those were not selected to put their names forward for consideration next year. The committee members for 2014-2015 can be viewed here: <http://goo.gl/rHZ0cK>

## Seller Brokerage Agreement: Brokerage representative line

A regular discussion topic with brokers following their audit is that the Signature of Brokerage Representative line at the bottom of the Seller Brokerage Agreement is to be **signed** by the industry member working with the seller; a typed in name is not sufficient. When using *WebForms*, you may encounter instances where it automatically inserts industry members names into that line. In this instance, delete the inserted text and physically sign the line when filling out the form.

## Mythbuster of the Month: I want to change brokerages but I have active contracts. If I switch I will lose the commission on a my transactions.

Real estate contracts remain with the brokerage unless the broker and clients of the brokerage (i.e. buyer/seller) agree in writing to change the representation to the brokerage you end up transferring your licence too. It's important to note that you cannot interfere in real estate contracts your clients signed with the brokerage. If the broker and clients agree in writing to transfer their representation to another brokerage that is fine, but you cannot approach clients and interfere in their current contract. If your current broker agrees to pay you for your services for the transaction you facilitated, payment must be issued to your new brokerage, not to you specifically.

# nova scotia real estate COMMISSION

News Bulletin 189 • July 2nd, 2014

## Industry member licence cancellation notice

The following industry members' licence was not renewed on July 1, 2014, for failing to complete course requirements.

Industry Member	Brokerage

## Broker & brokerage licence cancellation notice

The following brokerage and broker licences were suspended for non-payment of fees and failure to file applications.

Brokerage	Broker	Salesperson

## A job well done!

The Commission would like to thank industry members for completing their course requirements for the 2013/14 licensing cycle. This year's record low of licence cancellations is a clear indication to us and the public that industry members are educated on best practices and are prepared to continue trading in real estate as professionals.

## Mythbuster of the Month: **NSREC & NSAR have the same function**

While our names may be similar, the two organisations have completely different functions. The Nova Scotia Real Estate Commission is a self-governing regulatory body appointed by the provincial government to license and regulate the real estate industry in Nova Scotia. We work hard to maintain consumer confidence in the industry by enforcing the Real Estate Trading Act, its regulations and the Commission's by-laws.

Comparatively, the Nova Scotia Association of REALTORS® is a professional association with voluntary membership. Its mission is to enhance REALTOR® success by providing educational and support services like MLS® and Errors and Omissions insurance. The NSAR also delivers the licensing courses and Continuing Professional Education for the Commission.

For more information on the Nova Scotia Real Estate Commission and its function, go to: <http://bit.ly/1IjGjz>



# nova scotia real estate COMMISSION

News Bulletin 190 • July 16th, 2014

## NOVA SCOTIA REAL ESTATE TRADING ACT

**AMENDED**

The Nova Scotia Real Estate Commission has been working hard to bring forward a new Real Estate Trading Act that better reflects the needs of our dynamic real estate industry.

We thank industry members for sending in feedback over the last few months on the current Act and how it can be improved to benefit the industry and consumers alike.

This comprehensive piece of legislation must reflect the voices of our community and we are looking forward to receiving your further input. As we finalize our draft, we are confident that with your help the new proposed Act will bring real estate regulation in Nova Scotia into a new era.

We welcome your feedback on the new draft version of the Act, which is now available for review on our website

**[www.nsrec.ns.ca](http://www.nsrec.ns.ca)**

Please submit your feedback by **Friday, August 15th, 2014** by emailing [modernact@nsrec.ns.ca](mailto:modernact@nsrec.ns.ca)

# nova scotia real estate COMMISSION

News Bulletin 188 • June 25th, 2014

## Office closed on Canada Day

The Commission office will be closed on Tuesday, July 1st for Canada Day. The Commissioners and staff wish everyone a safe and happy Canada Day.

## Need extra time to complete your CPE?

The annual continuing education requirements must be met by June 30th, 2014; failing to do so means that your licence will not be renewed and you will no longer be able to trade in real estate. You will also be required to **immediately remove all for-sale signs and advertising**. This includes updating your social media employment status or fully removing your social media pages (LinkedIn, Facebook, Twitter, Instagram and Pinterest, etc) and real estate websites. Failing to do so may result in disciplinary action. If you do not intend to remain in the industry, **terminating your licence by the end of day on June 30th removes your name** from the licence cancellation list that will be published on July 2nd, 2014.

If you have not completed your CPE requirements by June 30th, you may apply to the Commission for a **licence extension** which will keep your licence active until July 31st, at which time your remaining CPE credits must be completed.

Your licence will not be renewed at the end of the 30 days if your CPE is not completed and you must immediately stop all trading activities and advertising until such time as your CPE is complete and you re-apply.

To apply for a licence extension, submit a completed *Licence Extension Form* with the \$1,000 extension fee by **no later than**

**noon on June 30th**. The form is available at <http://goo.gl/tn4Fc> and also from the Commission office.

## Brokers take note

As you are **ultimately responsible for your brokerage's advertising** and that of your industry members, it is important that you ensure all advertising for industry members who have not renewed their licences is removed prior to July 1st. Failing to do so may result in disciplinary action. The **Commission will be reviewing the advertising activity of newly expired licence holders**, including online advertising and social media sites, to ensure compliance with the Act and Commission Bylaw.

Should you encounter issues with removing advertising in time, including for reasons out of your control, **please notify the Commission's Compliance staff** (cmacdonald@nsrec.ns.ca or sbest@nsrec.ns.ca) **immediately**. For information on **how to change social media site profile settings**, please see;

**Facebook:** <http://www.facebook.com/help/>

**Twitter:** <http://bit.ly/Nigq44>

**LinkedIn:** <http://linkd.in/1fnpy4H>

Some sites **require several days** for changes to be made. **Allow yourself sufficient time** for the request to be processed.

The Commission can clarify if your industry members have completed their CPE requirements and NSAR can provide you with information on available course offerings.

## Coming in the next issue: **Mythbuster of the Month**

In effort to ensure public protection and consumer confidence, we're introducing a new series intended to dispel myths about the regulation of real estate and give you the straight facts. We want to know what myths you're hearing; send them to [sarahhill@nsrec.ns.ca](mailto:sarahhill@nsrec.ns.ca) and watch for the new feature in our next bulletin.



# nova scotia real estate COMMISSION

News Bulletin 187 • June 23rd, 2014

## Office closed on Canada Day

The Commission office will be closed on Tuesday, July 1st for Canada Day. The Commissioners and staff wish everyone a safe and happy Canada Day.

## Important renewal info

Renewal season is upon us and the Commission would like to thank brokers for their co-operation during this busy time of year. Brokers are reminded that licence renewal forms and fees sent to the Commission that are not post-marked by June 16th are now subject to a **\$50 administrative penalty**.

If you have any questions about the renewal process, please contact **Pam Crane, Licensing Officer**, at 800-390-1015 ext. 304 or [pcrane@nsrec.ns.ca](mailto:pcrane@nsrec.ns.ca).

## Need extra time to complete your CPE?

The annual continuing education requirements must be met by June 30th, 2014; failing to do so means that your licence will not be renewed and you will consequently no longer be able to trade in real estate. You will also be required to **immediately remove all for-sale signs and advertising**, including taking down your websites and social media pages, including (but not limited to) LinkedIn, Facebook, Twitter, Instagram and Pinterest. Failing to do so may result in disciplinary action.

If you have not completed your CPE requirements by June 30th, you may apply to the Commission for a **licence extension** which will keep your licence active for 30 additional days, ending July 31st, in which time your remaining CPE credits must be completed.

If you do not complete your CPE during the extension period, your licence will not be renewed at the end of the 30 days and you must immediately stop all trading activities

and advertising until such time as their CPE is complete and you re-apply.

To apply for a licence extension, submit a completed *Licence Extension Form* with the \$1,000 extension fee by **no later than noon on June 30th**. The form is available at <http://goo.gl/tn4Fc> and also from the Commission office.

## Brokers take note

As you are **ultimately responsible for your brokerage's advertising** and that of your industry members, it is important that you ensure all advertising for industry members who have not renewed their licenses is removed prior to July 1st. Failing to do so may result in disciplinary action. Be aware that the **Commission will be reviewing the advertising activity of newly expired licence holders**, including online advertising and social media sites, following the beginning of the new licensing cycle to ensure compliance with the Act and Commission By-law.

The Commission can clarify if your industry members have completed their CPE requirements and NSAR can provide you with information on available course offerings.

## Phishing scams are still around

Industry members should protect themselves by being mindful of **phishing e-mail scams that are being sent to industry members across the province**. The scammer uses the *E-mail REALTOR®* function on an MLS® listing to contact industry members requesting more information about properties. Industry members are cautioned when opening e-mails that are in an unfamiliar format or sent from an unfamiliar address, or being asked to provide passwords to unfamiliar individuals or businesses. For more information on this scam, see the Commission's Bulletin #174, which can be read here: <http://bit.ly/Uibxw4>

# nova scotia real estate COMMISSION

News Bulletin 186 • May 16th, 2014

## Office closed on Victoria Day

The Commission office **will be closed** on **Monday, May 19th** for Victoria Day. The Commissioners and staff wish everyone a safe and happy Victoria Day weekend.

## Licence Renewals are coming!

Renewal packages have been sent out this week from the Commission office to each brokerage. Local brokerages will have received them via courier while others are being mailed out via Canada Post.

Brokerages are reminded that licence renewal forms and fees must be submitted to the Commission by June 16th, 2014.

**Renewals that are not received or postmarked by June 16th, are subject to an administrative penalty.** All current licenses will expire June 30th, 2014.

If you do not receive your renewal package by **Friday, May 23rd**, or have any questions about the renewal process, please contact **Pam Crane, Licensing Officer**, at 1-800-390-1015 ext. 304 or [pcrane@nsrec.ns.ca](mailto:pcrane@nsrec.ns.ca).

## Time to complete your continuing professional education courses

All industry members are reminded that the annual continuing education requirements must be met by June 30th, 2014. Failing to meet this requirement means that your licence will not be renewed on July 1st and you will consequently no longer be able to trade in real estate. **You will also be required to immediately remove all for-sale signs, published advertising, including taking social media pages and webpages offline.** This includes, but is not limited to, LinkedIn, Facebook, Twitter and Instagram pages and/or accounts.

The mandatory courses for the 2013/14 licensing cycle are:

- (1) **The Consumer and You** - an interactive workshop on communication with clients and customers
- (2) **Rock Solid Transaction Files** - an informative workshop on mandatory forms and crucial documentation that are involved in rock solid transaction files
- (3) One three credit **elective course**

If CPE requirements are not met, the industry member's licence will expire June 30th. **Industry members who do not complete their CPE requirements may apply to the Commission for a licence extension**, with a fee, which will then permit them to remain licensed for a period of a 30 days, starting July 1st, in which time their CPE credits must be completed. Applications and payment to the Commission must be received **no later than noon on June 30th, 2014**. Applications will not be processed without payment or after the June 30th deadline.

If the industry member does not complete their CPE during the extension period, their licence will not be renewed at the end of the 30 days and they must immediately stop all trading activities until such time as their CPE is complete and they reapply. Brokers will be responsible to confirm that the licence application has been processed and that any advertising (including online) for any unlicensed brokerage members is removed.

Any industry member who wishes to apply for a licence extension **must complete the Licence Extension Form and pay the \$1,000 extension fee by noon on June 30th**. The form is available here: <http://goo.gl/tn4Fc>

It is also important to note that the **Commission will be reviewing the activity of all industry members with expired licences, including any online promotion and advertising**, immediately following the new licensing cycle to ensure compliance with the Act and Commission bylaw.

## Reporting judgments and lawsuits

**Bylaw 334** requires all industry members to report to the Commission if they have filed for bankruptcy, been named in a lawsuit or if a judgment has been filed against them. This is done on the second page of your renewal form. If you have an item to report, details must be given in the space provided or on a separate sheet of paper.

## Designations & degrees

When completing renewal forms, ensure that you record any designations or degrees you have earned in the *designations* section. A number of industry members state that they have real estate designations and/or university degrees on their websites, however nothing is recorded on their licensing application. Additionally, ensure that you have documentation to support any degrees or designations in the event that it is requested. Advertising credentials you do not have is false advertising and could invite compliance involvement and/or disciplinary action.

## Grace period ending for team advertising

Teams are given until **July 15th, 2014**, to bring existing advertising and signage into compliance with the new bylaw.

### **Bylaw 708 states;**

*a. Any advertisement or incentive or the offering of any incentive or the participation in an incentive program to the public in any medium as an inducement to trade in real estate undertaken or authorized by an industry member must not be;*

*i. false;*

*ii. inaccurate;*

*iii. reasonably capable of misleading the recipient or intended recipient;*

*iv. in bad taste; offensive or harmful to the best interests of the public or harmful to the image of the real estate industry; or*

*v. prohibited by law.*

*b. All industry member advertising must display the brokerage name in a prominent and easily readable manner.*

*c. No industry member may advertise in such a manner as to*

*cause confusion between the brokerage name or logo and any other name or logo that appears in the advertisement.*

*d. The brokerage name or logo must be the same size or larger than the team name or team logo in team advertising.*

Examples of correct and incorrect team advertising can be found in the Commission Advertising Guidelines here:

<http://nsrec.ns.ca/media/f4cb.pdf?mid=425>

**NOTE: 708 a), b), and c), apply to all advertising**, not just team advertising.

## Warning when dealing with marshland

The Agriculture Marshland Conservation Commission, within the Nova Scotia Department of Agriculture, has recently contacted the Commission in regards to their Act protecting agricultural marshland.

They requested that we remind industry members that the *Agriculture Marshland Conservation Act* protects marshland across the province and has the potential to affect trade in and around marshland properties.

In general; development is not permitted on designated agricultural marshland. In some rare cases there are exceptions to this rule and in these cases a variance must be requested from the Department.

The Commission asks that you be aware of this protection when dealing with agriculture marshland. For more information on the Agriculture Marshland Conservation Commission, you can view the Agriculture Marshland Conservation Act here: <http://nslegislature.ca/legc/statutes/agricmar.htm> or find your local Department of Agriculture office here: <http://novascotia.ca/agri/programs-and-services/regional-services>

# nova scotia real estate COMMISSION

News Bulletin 185 • May 9th, 2014

## Be a part of self regulation!

The Commission is looking for volunteers to serve on our Licensing, Complaints Review, Commercial and Discipline Committees. Serving on one of our committees provides excellent learning opportunities while allowing you to be a part of the regulatory process.

In order to apply, you must be an industry member in good standing (for information on what constitutes good standing see bylaw 255) and aware of both the seriousness of the position and the time commitment involved. As a member of the licensing or complaints review committees, you are required to attend a minimum of four meetings per year as well as any additional time spent reviewing committee documents prior to the meetings. In the case of the complaints review committee, the time spent reviewing investigation files is significant. As a member of the discipline committee, you may be called upon at any time during the year to serve as a member of a hearing panel, which may require one to three days per hearing and additional time writing the hearing panel decision.

Those interested can e-mail Brad Chisholm, Registrar, at [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca) with "Committee Volunteer" in the subject line. In the body of the e-mail, please detail;

- your name, brokerage and number of years licensed
- which committee you wish to join
- any experience and/or credentials that you feel would make you a good fit for the committee
- why you would like to volunteer with the NSREC

**All applications must be received by Wednesday, May 28th at 4p.m. to be considered.**

## Advertising Review Process

It is understandable that from time to time you may find yourself unsure whether your particular ad ticks all the right boxes. At the Commission, we're able to assist industry members who have questions about whether their advertisement complies with RETA and our Bylaw. You may send advertisement proofs to our compliance team for review prior to booking your ad space.

The compliance team meets twice a week to review advertisements from industry members. If you are unsure if your advertisement complies with the Commission's advertising requirements, it is recommended that you send a copy to any of the following individuals for review, or drop a copy off at our office;

- Susan Best, Compliance Investigator  
([sbest@nsrec.ns.ca](mailto:sbest@nsrec.ns.ca))
- Carolin MacDonald, Compliance Manager  
([cmacdonald@nsrec.ns.ca](mailto:cmacdonald@nsrec.ns.ca))

For 'For Sale' signage approval, continue to send proofs to Brad Chisholm, Registrar, at [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca).

Upon submission you will receive a written response from the compliance team in due time.

# nova scotia real estate COMMISSION

News Bulletin 184 • April 17th, 2014

## Closed for Easter Holidays

The Commission office will be closed all day on Friday, April 18th and Monday, April 21st for the Easter holidays.

## The Nova Scotia Real Estate Commission's Annual General Meeting - this Thursday!

Join us for our AGM to review the 2013 year and learn what is on the horizon for the Commission in 2014.

Thursday, April 24th, 10:30am - 12pm

NSAR Auditorium, 7 Scarfe Court, Dartmouth

*Light lunch to follow.*

## New Audit Requirement for Trust Accounts

In the fall of 2013, the Commission revised the audit requirements for brokerages with no activity in their trust account for the audit period. As per the revised audit requirements, brokerages who submit Audit Form 2, *Declaration Respecting an Absence of Trust Activity*, or Audit Form 3, *Declaration Respecting an Absence of any Transactions*, are required to submit either: a) trust account bank statements for the audit period; or b) a letter from their financial institution indicating the trust account is active, the current balance, and confirmation that the brokerage had no trust activity for the audit period.

During this process, the Commission discovered that several brokerages' trust accounts were in dormant (inactive) status or had closed due to inactivity. The Commission also discovered that several brokerages deposited funds into their trust account for the purpose of generating activity to keep the trust account open.

As per the Real Estate Trading Act Sections 4(3) and 32, the broker is responsible to ensure their brokerage has, and

maintains, an interest-bearing real estate trust account. It is the responsibility of the broker to ensure their brokerage's trust account does not go dormant (inactive) or close.

Additionally, the Commission Bylaw does not permit brokerages to deposit or hold any funds in their trust account which are not real estate trust funds. As per Bylaw 626: *"A broker shall not co-mingle their own money with trust funds. The only funds that may be deposited into a brokerage trust account are funds to be held in trust"*.

Failure to comply with the Real Estate Trading Act, Commission Bylaw and Policies and Procedures may result in disciplinary action.

## New Bylaw - 639

Bylaw 639 reads...

*(a) when conducting an inspection, audit, or review, the Commission shall determine whether the inspection, audit, or review is to be conducted at the location of the brokerage, or through the forwarding of the required books, documents, papers, correspondence and records to the Commission.*

*(b) in cases where the inspection, audit, or review is to be conducted at the location of the Commission, the Commission shall bear the required costs of deliver to the Commission office and return to the brokerage.*

Purolator services the entire province and will be the courier used when requesting documentation for audit purposes. In situations where the Commission determines the inspection and/or audit will be conducted as per Bylaw 639(b), the Commission will bear the courier cost.

## Continuing Education Courses Reminder

All industry members are reminded that the annual continuing education requirements must be met by June 30th, 2014. Failing to meet this requirement means that your licence will not be renewed July 1st and you will no longer be able to trade in real estate. You will also be required to immediately remove all advertising, for-sale signs, social media sites and take webpages offline. This includes, but is not limited to, LinkedIn, Facebook, Twitter, Instagram, etc.

The mandatory courses for the 2013/14 licencing cycle are:

- (1) **The Consumer and You** - an interactive workshop on communication with clients and customers.
- (2) **Rock Solid Transaction Files** - an informative workshop on mandatory forms and other crucial documentation that are involved in rock solid transaction files.
- (3) One elective course.

If CPE requirements are not met, the industry member's licence will expire June 30th. An industry member who does not complete their CPE may apply for to the Commission for a 30-day licence extension and pay the extension fee, which will permit them to remain licensed for a period of 30 day extension, starting July 1st, in which time their CPE credits must be completed. Applications and payment to the Commission must be received no later than noon on June 30th, 2014. Applications will not be processed without payment or after the given deadline.

If the industry member does not complete their CPE during the 30 days, their licence will not be renewed at the end of the 30 days and they must immediately stop all trading activities until such time as their CPE is complete and they reapply to the Commission. Brokers will be responsible to confirm that their licence application has been processed.

Any industry member who wishes to apply for a licence extension must complete the *Licence Extension Form* and pay the \$1,000 extension fee by noon on June 30th. The form is available here: <http://goo.gl/tn4Fc>

It is also important to note that the Commission will be reviewing the activity, including online promotion and advertising, of all industry members with expired licences on July 1st to ensure compliance with the Act and Commission Bylaw.

As an unlicensed person, no trading can occur. This means that the industry member must, immediately:

- assign all brokerage agreements
- cease all advertising, including taking down signage, social media pages and websites
- cease to act in any manner that falls under the definition of trading in the Act

All unlicensed industry members failing to complete CPE will have their name published in an industry publication, as per Bylaw 839.

Any person who fails to comply may find themselves subject to disciplinary action. Brokers who permit unlicensed trading at their brokerage may also find themselves subject to the same disciplinary action.

## Buyers and Sellers Guides are available

The Practical Guides for Buyers and Sellers are updated, redesigned and available for purchase at a cost of \$2 per guide.

These booklets are a welcome resource for clients and have room on the inside cover for a personalized stamp, sticker, or hand-written note. The booklets can also be viewed, downloaded, and printed from the Commission's website at the following link: <http://nsrec.ns.ca/contentc664.html?doc=73>



# nova scotia real estate COMMISSION

— News Bulletin 183 —

## Commissioner election—request for nominations

The annual election for an industry member to serve on the Commission Board of Directors will take place at the Commission Annual General Meeting on April 24th in the auditorium at 7 Scarfe Court, Dartmouth.

Any industry member who wishes to be placed on the nomination list must complete the attached form and have it signed by ten industry members.

Nominations must be received by the Commission office no later than **March 27th, 2014, at 4:30 p.m.** The election is for one commissioner with a three-year term commencing May 1st. The first person to receive 50 per cent plus one of the ballots cast will be declared elected.

All industry members in good standing are eligible to let their name stand. Those nominated must not have been found guilty of any offence by the Commission or a board/association during the past two years.

Industry members interested in serving should be aware of both the seriousness of this position and the time commitment involved. The industry member elected to the Commission will have to attend five Commission meetings per year and serve on one or more Commission committees.

Please feel free to call the Commission if you have any questions or need more information before you put your name forward.

## Continuing professional-education courses

All industry members are reminded that annual CPE requirements must be met by June 30th. If you do not complete your CPE requirements by the deadline, you must either cease trading in real estate until your courses are completed



or purchase a 30-day licence extension, as per Bylaw 323 (b), at a cost of \$1,000. To cease trading in real estate, you must immediately stop all advertising, remove for-sale signs and take websites offline. All of your brokerage contracts must be assigned to other industry members at the brokerage, and you cannot solicit new business. If you purchase the licence extension, you can continue to trade in real estate, but you must complete your courses within 30 days or your licence will be suspended until the courses are completed.

## Donations to registered charities not an incentive

The Commission occasionally receives calls about whether donating a portion of a commission to a registered charity is considered an incentive. It is not. An incentive is something offered to a party to the transaction in exchange for using a brokerage's services. A charity is not a party to the transaction. Any industry member who wishes to donate a portion of their commission to a registered charity as part of their promotion and advertising may do so.



## Commissioner nomination form

I, \_\_\_\_\_, licensed as a \_\_\_\_\_ with the  
\_\_\_\_\_ brokerage in the city/town of  
\_\_\_\_\_ consent to being nominated for election as a Commissioner of the  
Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a  
Real Estate Board/Association during the last two years. I authorize the Commission to release my name as a nominee  
to the industry, and if elected, I agree to serve.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

The industry members signed below nominate the above industry member for election to the Nova Scotia Real Estate Commission (Must be signed by ten current industry members):

<i>Name (please print)</i>	<i>Signature</i>	<i>Brokerage</i>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

**Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission  
Nominations must be received by the Commission no later than 4:30 p.m., March 27th, 2014.**



# nova scotia real estate COMMISSION

— News Bulletin 182 —

## Bylaw revisions

The Commission Board of Directors approved the following bylaw revisions and additions at the December Board of Directors meeting (shown in bold text, followed by an explanation in italics). See the document *Requirements for Real Estate Teams*, which gives an in-depth explanation of new the bylaw for real estate teams, including timelines for compliance.

### 123A

**FINANCE COMMITTEE makes recommendations to the Commission Board of Directors about Commission finances. Committee membership is defined in the NSREC Finance Committee Policy.**

*New bylaw to define the Finance Committee.*

### 136A

**NSREC MANDATORY FORMS COMMITTEE makes recommendations to the Commission Board of Directors regarding new and existing Commission-mandated forms. Committee membership is defined in the NSREC Mandatory Forms Committee Policy.**

*New bylaw to define the NSREC Mandatory Forms Committee.*

### 144A

**TEAM is two or more industry members licensed with the same brokerage, including licensed assistants, who**

- a) **Work together on a regular basis to provide real estate brokerage services;**
- b) **Represent themselves to the public as being part of one entity; and**
- c) **Designate themselves by a collective name, such as team or group.**

**A team member shall belong to one team only and shall not provide real estate services independently of the team.**

*New bylaw to define real estate teams.*

401 (new applicants)

The licensing fees for each category of licence shall be as follows:

- |  |              |
|--|--------------|
| a) <b>Brokerage .....</b>                  | <b>\$360</b> |
| b) <b>Broker .....</b>                     | <b>\$360</b> |
| c) <b>Managing associate broker .....</b>  | <b>\$360</b> |
| d) <b>Associate broker .....</b>           | <b>\$360</b> |
| e) <b>Salesperson .....</b>                | <b>\$360</b> |
| f) <b>Approved sales corporation .....</b> | <b>\$140</b> |

402 (renewals)

- |   |              |
|---|--------------|
| a) <b>Brokerage .....</b>                 | <b>\$330</b> |
| b) <b>Broker .....</b>                    | <b>\$330</b> |
| c) <b>Managing associate broker .....</b> | <b>\$330</b> |
| d) <b>Associate broker .....</b>          | <b>\$330</b> |
| e) <b>Salesperson .....</b>               | <b>\$330</b> |

407

**Branch office fee per location .....**\$330

*Updated to reflect January 1st fee increase.*

522

The appointed trustees shall serve the following terms:

- a) **Trustees for a period of one year;**

*Recovery Fund trustees are appointed for a one year term, not two, to be the same as all other committee appointments.*

Industry members are required to make the following disclosures:

**(a) (iii) if a member of a team, the names of all industry members on the team,**

*When working with buyers and sellers, real estate teams must disclose, in writing, who is on their team.*

708

a) Any advertisement or incentive or the offering of any incentive or the participation in an incentive program to the public **in any medium** as an inducement to trade in real estate undertaken or authorized by an industry member must not be:

...

- b) **All industry-member advertising must display the brokerage name in a prominent and easily readable manner.**
- c) **No industry member may advertise in such a manner as to cause confusion between the brokerage name or logo and any other name or logo that appears in the advertisement.**
- d) **The brokerage name or logo must be the same size or larger than the team name or team logo in team advertising.**

*The addition of “in any medium” was added for simplicity and clarity and eliminate the need for the original (b), which addressed internet advertising only.*

*(a), (b), and (c) are new bylaws to address and correct the misleading advertising practices of an increasing number of industry members regarding brokerage logos and names.*

*The new (b) was added as a result of industry members, despite repeated notices, either not displaying the brokerage name or displaying it in such a small format as to be illegible or overlooked.*

*The new (c) was added as a result of industry members, both teams and individuals, creating and displaying personal and team logos that made it look like their logos were the brokerage logo. This is misleading.*

*The new (d) was to stop the practice of teams advertising their services as if the team name was the brokerage name. Regardless of whether industry members are trading as a team or individuals, they are trading on behalf of the brokerage and that must be clear in all advertising.*

- a) **In accordance with Real Estate Trading Act Section 25, all newspaper notices must contain the industry member’s name, the current and/or former brokerage, the violations, the length of cancellation or suspension, and the penalty. The Registrar may include an explanation of the events/behaviour that lead to the violations.**
- b) **The Registrar must send a notice of any cancellation or suspension to the real estate industry and publish the notice on the Commission website. The notice must contain the industry member’s name, the current and/or former brokerage, the violations, the length of cancellation or suspension, the penalty, and an explanation of the events/behaviour that lead to the violations. The notice remains on the Commission website for the duration of the suspension/cancellation.**
- c) **The Registrar may send a notice to the industry with the names of any industry member whose**
  - i) **licence fails to renew as a result of failure to complete required education course;**
  - ii) **errors and omissions insurance coverage is terminated; or**
  - iii) **licence is downgraded or restricted.**
- d) **Administrative penalties—Sanctions assessed by way of administrative penalty may be published without reference to the industry member’s name.**
- e) **Discipline decisions involving a fine of \$500 or less may be published in an industry discipline publication and placed on the Commission website without giving the name of the industry member or brokerage.**
- f) **Discipline decisions involving a fine greater than \$500 may be published in industry discipline publication and placed on the Commission website. The publication will identify the name of the industry member, the current and/or former brokerage, and an overview of the case and the penalty. After a period of one year from the publication date, the industry member and the brokerage name(s) will be deleted from the website, but the description of the violation and the penalties will remain.**
- g) **Discipline history disclosure—When requested in writing, the Commission may disclose the discipline history of an industry member. Violations involving fines greater than \$500, licence suspensions/cancellations, restrictions or downgrades will be disclosed for a five-year period prior to the date of the request. Violations involving, administrative penalties, fines less than \$500, course requirements, and letters of rep-**

rimand will be disclosed for a three-year period prior to the date of request.

- h) **Licence history disclosure—When requested in writing, the commission will disclose the following about an industry member:**
- i) **The number of years licensed in a particular class of licence;**
  - ii) **The total number of years licensed; and**
  - iii) **The name of the industry member’s current brokerage.**

*The Commission’s publication policy was last updated in 2001. The updated bylaw is based on a review of other jurisdictions, other regulated professions, and written with the intent of consumer protection and industry education and transparency.*

Brokers, the updated Bylaw is available for printing here: <http://nsrec.ns.ca/documents/Bylaw.pdf>

## Communications Coordinator position

Employment opportunity with the Nova Scotia Real Estate Commission. Applicants, please make sure you follow the instructions on how to apply.

As a member of the communications team and reporting to the Registrar, the communications coordinator’s primary responsibilities will be the research, development, design, and distribution of communications materials for internal and external audiences (reports, position papers, newsletters, manuals, website content, annual reports etc.). Other duties will be assigned, based on project timelines.

### Qualifications

- Bachelor degree or diploma in public relations, journalism, communications, or technical writing.
- Three to five years experience in a communications position, preferably in a regulatory or legislative setting.
- Capable of working independently and within timelines.
- Competent using Microsoft Office Suite, Adobe Creative Suite, social media, and content management systems.
- Experience researching and writing about complex topics in plain language is considered a strong asset.

**Position Type:** Full-time salaried position, with a six-month probationary period. After the probationary period, the successful applicant is entitled to medical and dental benefits, RRSP sharing, paid sick time and three-weeks vacation.

**How to apply:** Please email your resume, cover letter, salary expectations, and two writing samples to Peggy Kell at [pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca).

**Application deadline:** January 31, 2014

## Get contract extensions in writing

If a date in a contract needs to be extended, whether it is financing, inspection, duration, etc. the extension must be done, in writing, before the original deadline expires. The compliance auditors, through the course of auditing transaction files, have seen instances where seller brokerage agreements were amended to extend the length of the contract, but the amendments were created and signed after the original seller brokerage agreements expired. This is just plain wrong. When a contract expires, it ceases to exist. You cannot amend something that doesn’t exist.

## Witnessing/dating faxed real estate agreements

Real estate agreements that are signed and faxed to the brokerage without a witness may not, under any circumstances, be witnessed after the fact. Additionally, if a client/customer does not date the real estate agreements prior to faxing them back, the date may not be inserted after the fact unless the inserted date is initialed by all parties to the transaction.

## Disclosure of real estate licence

When an industry member buys or sells a property, they must disclose that they are licensed by the Commission in the real estate agreement. Industry members can state that they are a licensed salesperson, a licensed broker, or a licensed Industry Member. Industry members cannot use the term licensed REALTOR® because being a REALTOR® means you are a member of the Nova Scotia Association of REALTORS® (NSAR). NSAR does not grant licenses and you can be licensed to sell real estate without being a member of NSAR. If an industry member is purchasing a property, they must also state their reason for purchasing the property on the real estate agreement. An industry member who has an interest in a property greater than five per cent, or are an immediate relative of the buyer/seller, this relationship with the industry member must be disclosed in the real estate agreement.

# nova scotia real estate COMMISSION

— News Bulletin 181 —

## Commission Holiday Hours

The Commission Board of Directors and staff want to wish everyone a safe and happy Christmas and all the best in the New Year. Please note the following office closures:

December 24th—close at noon

December 25th to January 1st—closed

January 2nd—open

### Holiday contacts:

Brad Chisholm, Registrar, [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca)

Carolin MacDonald, Compliance Manager,  
[cmacdonald@nsrec.ns.ca](mailto:cmacdonald@nsrec.ns.ca)

## Documenting cash backs and inducements

When a seller is giving a cash back to a buyer or an inducement is offered by the brokerage(s) to complete a transaction, you need to ensure the details are documented clearly.

When documenting cash backs, make sure you record not only the amount of the cash back, but also how and when the cash back will be provided to the buyer. For example, the purchase price could be reduced by the cash back amount, the seller could provide the buyer with a cheque or a money order, or any other arrangement agreed to by the buyer and seller. Documentation of the cash back also needs to be provided to the buyer's financial institution.

An inducement is a reward to a buyer or a seller on a specific transaction that results in the completion of the transaction. In this situation, a brokerage (or brokerages) works out a specific arrangement to facilitate the closing of the transaction. For example, a brokerage may offer to provide new appliances to a buyer if they proceed with the purchase or offer a

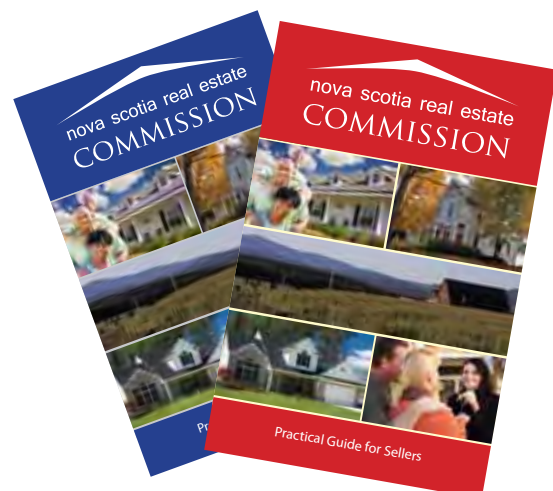
commission reduction to a seller. As with documenting cash backs, you need to record the inducement and how and when it will be delivered.

## Licence fee increase effective January 1st

On December 19th, the Commission Board of Directors approved the Commission's 2014 budget, which includes the first fee increase in five years. Effective January 1st, 2014, all categories of new and renewal licence fees will increase \$60. Approved sales corporation renewals, Recovery Fund, and administrative fees will remain the same.

## Buyers and Sellers Guides are available

The Practical Guides for Buyers and Sellers are updated, redesigned and available for purchase at a cost of \$2 per guide. These booklets are a welcome resource for clients and have room on the inside cover for a personalized stamp, sticker, or hand-written note. The booklets can also be viewed, downloaded, and printed from the Commission's website at the following link: <http://nsrec.ns.ca/contentc664.html?doc=73>



# nova scotia real estate COMMISSION

— News Bulletin 180 —

## Am I under investigation?

One of the mandates of the Commission is to investigate the conduct of licensed industry members for the proper administration of the Act and Bylaw. Part Eight of the Commission Bylaw outlines this mandate. An investigation may be initiated from a written complaint from the public, by the Registrar in the absence of a written complaint or as the result of issues that arise from an ongoing investigation.

When the Registrar directs the Commission compliance staff to initiate an investigation, they follow this process:

- A Commission investigator notifies the industry member subject to the complaint (respondent) that they are under investigation, and provides a copy of the written complaint. If the Registrar initiates the complaint, the details of the issue are provided in the letter. The Commission gives the respondent a deadline to provide a written response. The industry member's broker is copied on the notice.
- A Commission investigator notifies the complainant that an investigation is open.
- Based on the initial complaint, the investigator requests a written statement from all other industry members involved in the alleged event. They may or may not receive a copy of the complaint.
- The Commission requests a copy of the applicable brokerage file(s) from each industry member.

### Phase I: the exchange of statements.

The investigator sends the complaint to the respondent, with a request for a statement. **The industry member must respond to this request in the allotted time-frame.**



When the respondent submits their written statement in response to the complaint, the investigator forwards the response to the complainant.

The complainant may refute, rebut or otherwise clarify the response.

The complainant's response, when received, is forwarded to the respondent. The industry member must respond in writing. In the interest of fairness, the Commission added this final stage to this phase.

All parties are given at least three weeks for each response, and consequently this phase may last up to three months. The time allocation is necessary to ensure fair process. For example, the respondent is entitled to have enough time to formulate a response, which may include seeking legal counsel.

### Phase II: collection of information.

This stage of the process is confidential. At the end of the exchange of statements, Commission investigators begin their collection of data. Prior to this, compliance staff acts as

intermediaries in the exchange of statements. They answer procedural questions, provide copies of the statements to the respective parties, gather documentation, and prepare for the investigation.

During phase II, Commission investigators review the paperwork associated with the alleged event and analyzes the statements. The investigator may seek clarification on certain items or may ask any other questions they deem relevant to the investigation. The investigators are not concerned with personal opinions as much as evidence.

The scope of the investigation may also expand during this stage. As per Bylaw 812, the investigator *“may investigate any other matter which arises during the course of an investigation and appears to be a breach of the Act, its Regulations or Bylaw.”*

The investigator may also require a statement from other industry members. **All industry members are required to substantially respond to the investigator.**

### Phase III: investigation report

When the investigator concludes the investigation, the investigator prepares a report for the Registrar.

### Phase IV: Registrar’s decision

After reviewing the investigation report and the evidence, the Registrar renders a decision. The Registrar may decide to either dismiss the complaint or charge the respondent(s).

If the Registrar charges the respondent, he may offer the respondent the opportunity to settle the matter without escalating to a hearing. This decision is at the discretion of the Registrar.

If the Registrar offers settlement agreement, the respondent may accept the settlement agreement or may exercise their right to a full hearing. This decision is at the discretion of the industry member.

### Phase V: Approval of decision

The Complaints Review Committee (CRC) reviews all discipline decisions made by the Registrar. The CRC consists of industry members and public volunteers. The Commission investigator presents the case to the CRC, along with the evidence and the report. Should they not approve the decision, the settlement agreement is rescinded and the Registrar may modify his decision or send the matter to hearing. The Commission follows this process every time the Registrar offers a settlement agreement or dismisses a complaint.

If the respondent rejects the settlement agreement, the matter automatically proceeds to a full discipline hearing, the settlement agreement becomes null and void and the discipline committee schedules a hearing.

## Investigations FAQ

What should I do if I receive notification that I am under investigation, or if I am asked to cooperate in an investigation?

1. Cooperate. Not only does the Bylaw obligate industry members to cooperate in an investigation (Bylaw 702 article 31 and Bylaw 809 and 810), it is the right thing to do. As a profession with the privilege of self-regulation, the discipline process is crucial. Participation in this process is integral to self-regulation and promotes the overall integrity of the industry.
2. Discuss the complaint with your broker and take some time to gather your thoughts and documentation. The Commission also recommends you discuss the complaint with your lawyer.
3. Prepare a thorough response to the allegations in the complaint. Your response must substantively address the allegations.
4. Do not attempt to change history. In other words, be truthful. Attempting to mislead the investigator may result in a charge for violating Bylaw 816, which states: *“No industry member shall make or permit to be made any false or misleading statement in any investigational information required to be furnished under the Act, its Regulations or the Bylaw.”* This is considered a serious charge.
5. Maintain your professionalism. Don’t forget, your response will be read by the complainant, the Commission investigator, the Registrar, the Complaints Review Committee (which includes your industry peers and public members), and perhaps a discipline panel, lawyers, and the Nova Scotia Court of Appeal. This is your opportunity to tell your side of the story. Being respectful and professional will go a long way.
6. Respond in the allocated timeframe, or ask for an extension in writing.

## What not to do when under investigation

When under investigation, do not

- Call the complainant.
- Attempt to intimidate or otherwise influence the complainant or the investigator.
- Ignore the request or withhold information.

Any attempt to affect the investigation may be viewed as violation of Bylaw 840. While you may feel personally attacked or wish to resolve the matter yourself, contacting the complainant or confronting the investigator is a bad decision. Bylaw 840 states: *“No industry member shall interfere with an investigation. An industry member who is the subject of an*

*investigation, shall not attempt to have the complainant withdraw a complaint. Once a complaint has been initiated, only the Registrar may withdraw the complaint.*” Your conduct may result in an additional, and unnecessary, charge for violating this Bylaw.

## **I have been asked to provide a statement. Should I assume I am also under investigation?**

It is possible that during the course of an investigation, your conduct will also come under review. The Commission’s role is not to assign fault or make a decision before concluding an investigation. Commission investigators collect and review data. The Commission’s mandate is to protect the public, and may investigate any matter that arises as the result of the investigation.

## **What if I can’t respond in the time-frame allotted?**

Ask the investigator for an extension in writing, explaining why you are making the request. While the investigator is not obligated to grant extensions, they generally will accommodate these requests.

## **What happens if I choose to not cooperate?**

Failing to cooperate, either by not responding or not substantially responding to the investigators requests and questions will result in a charge.

## **What do I need to provide to the investigator?**

You need to provide the investigator with

- Your written response.
- Your complete brokerage file.
- Names of other parties that you feel may provide relevant evidence, and their contact information.

## **In what format does my written response have to be?**

You may submit your response in the form of a handwritten or typed letter or email. You should sign your response, though the Commission may accept an email from your registered email address. You may deliver it in person, transmit it by mail, fax, email, or cloud computing.

## **What is included in a brokerage file?**

Bylaw 621 states:

- a) Real estate transaction files shall contain the following:
  - i) a trade record sheet signed by the broker or managing associate broker;
  - ii) a listing addendum (cut) sheet;
  - iii) signed acknowledgement of the agency disclosure brochure or confirmation that it has been provided;
  - iv) if applicable, a completed Seller and/or Buyer Brokerage Agreement(s) signed by the seller(s) or buyer(s);
  - v) any amendments to the Seller and/or Buyer Brokerage Agreement(s) signed by the seller(s) or buyer(s);
  - vi) a completed Agreement of Purchase and Sale signed by all parties;
  - vii) any amendments to the Agreement of Purchase and Sale signed by all parties;
  - viii) if applicable, a counter offer signed by all parties;
  - ix) if available, a Property Condition Disclosure Statement (PCDS) signed by all parties;
  - x) if applicable, a Transaction Brokerage Agreement or Limited Dual Agency Agreement signed by all parties;
  - xi) if applicable, any Customer Status Acknowledgment forms;
  - xii) confirmation from the seller/sellers’ lawyer advising that the transaction has successfully closed; and
  - xiii) all other documentation pertaining to the transaction.

In addition to the real estate documentation, the brokerage file must contain all written communication between the parties to the trade. This includes text messages, email, notes, CMAs, inspection reports, water tests, advertising, etc.

## **What is considered a trade?**

For the purposes of determining what the Commission considers a trade in an investigation, and for the purposes of file retention, a trade is any real estate contract executed by two parties. This includes accepted offers/counter offers, brokerage agreements, fee agreements, amendments, addenda to agreements, non-agency (i.e. mere posting) agreements, customer acknowledgements, advertising agreements.

# nova scotia real estate COMMISSION

— News Bulletin 178 —

## Scammer alert!

Another attempted deposit fraud scam was reported to the Commission. In this scam, the fraudster took the information from a listing cut on a Halifax property and contacted another brokerage asking them to represent them as a rental agent.

The fraudster was able to provide lots of property details, thanks to the information in the listing cut as well as photos of the property. As with all email fraud scams, the intent is to obtain money, in this case, through the collection of rent and security deposits on a property the fraudster doesn't own. Fortunately, the industry member contacted by the fraudster was skeptical of the information presented, performed a search on the property and found brokerage listing for the property.

In reviewing the fraudster's email correspondence, there are some standard internet fraud elements which should immediately trigger skepticism.

- Too good to be true—in this case, a two-story, fully renovated home in central Halifax renting for \$1000 a month.
- Basic details are wrong—fraudster asks for \$700 security deposit. The Residential Tenancy Act requires security deposits to be no more than half of one month's rent.
- Extreme sense of urgency—in all correspondence the fraudster conveys an extreme sense of urgency, i.e. "get back to me ASAP", "need a tenant urgently". The reason for this is the longer a scam goes on, the more likely it is to fall apart.
- Inconsistent language—in one email, the first and third paragraphs are written by someone who is clearly not



a native English speaker. The second paragraph, which describes the property, is in clear and understandable English, because it was copied directly from the brokerage listing cut, not written by the fraudster. The fraudster's emails also use a lot of real estate terminology, however, it is not terminology likely to be used by a consumer and the terminology is used inappropriately.

- Email only—if an individual can only be contacted by email, be skeptical. The person may have a legitimate reason for it, but they should be able to clearly justify that reason and it should sound plausible. If they can't, be wary. They obviously have access to a computer to email you, so if they can't talk on the phone, ask them to Skype.

While these scammers use the internet to find you, the internet can help you verify the people who contact you. Perform an internet search of their name and email address. Even people who want to be "off the grid" can find themselves on there. Search the property address, especially when it comes to listing and renting properties. Also search a sentence or two of the email. In a lot of cases, the scammer will run the same scam, word for word, on a lot of different people. A copy of the email may appear on one of a number of scam reporting websites.

If you are being targeted by a scammer, please contact the Commission so a warning can be issued to the industry. If you want to report a fraud, or if you need more information, contact The Canadian Anti-Fraud Centre:

[www.antifraudcentre-centreantifraude.ca](http://www.antifraudcentre-centreantifraude.ca)

Toll Free: 1-888-495-8501

Toll Free Fax: 1-888-654-9426

Email: [info@antifraudcentre.ca](mailto:info@antifraudcentre.ca)



## What is Kitec plumbing?

Kitec plumbing consists of flexible aluminum pipe between an inner and outer layer of plastic pipe (PEX pipe) with brass fittings. Marketed as a cheaper and easy-to-install alternative to copper piping, Kitec was sold between 1995 and 2007 for potable water, in-floor, and hot-water baseboard heating systems. The sizing of the pipe require fittings from its own manufacturer, IPEX, and these fittings were made with a high zinc content that caused dezincifying in situations with aggressive water conditions. This in turn could either restrict water pressure or cause the fittings to fail completely, causing flooding and water damage to homes.

In Nova Scotia, Kitec piping is primarily used in hot-water baseboard and in-floor heating systems. There are fewer fittings used in heating systems than potable-water systems, so the potential damage is likely to be lessened, and quicker to spot if fittings fail, because they are more visible than the fittings in potable-water systems.

However, fittings aren't the only issue. In Nova Scotia there have been problems with the actual pipe disintegrating. One theory is that the pipes degrade from running the hot water system at too high a temperature. Kitec was certified to run at a maximum temperature of 180° F. A typical hot water boiler is set at a high of 170° F. In cases where the coil that heats the water off the main boiler degrades and reduces water temperature, some homeowners increase the temperature of the hot water system past what it was designed to handle, causing the piping to disintegrate.

## Where is Kitec likely to be encountered?

Kitec was sold between 1995 and 2007, which means it can be found in houses constructed or extensively renovated during this time.

## How do I identify Kitec plumbing?

Most Kitec plumbing can be identified by its bright orange (hot water) and bright blue (cold water), which were the most common colours; however, it was also sold in red, blue, gray and black. The pipe is typically marked with one of the following brand names; Kitec, PlumbBetter, IPEX AQUA, WarmRite, Kitec XPA, AmbioComfort, XPA, KERR Controls or Plomberie Améliorée.

If fittings are visible, look for Kitec or KTC stamped on them. The terms CSA B137.9/10 or ATSM F1974 could also indicate a Kitec system. Often, the best place to look for the Kitec system is near the hot water tank or in the mechanical room where the pipe connects or exits the walls. Also look under

Orange "hot water" and blue "cold water" Kitec pipes



Kitec brass crimp fittings



Kitec electrical panel sticker



## Kitec in mechanical room



kitchen sinks or bathroom vanities, where the pipe and/or fittings exit the wall.

Look at the electrical panel doors, both inside and out, for a bright yellow or neon coloured sticker stating that Kitec was used in the home and that the electrical system cannot be grounded to it (electrical systems must have a metal ground).

## What do I need to know and do about Kitec when working with a buyer?

If your buyer is looking at homes that may have Kitec systems,

- explain what Kitec plumbing is, that it may exist in the homes being viewed, and what the potential risks are, i.e. the fittings may fail, the pipes may fail, and there may be insurance and/or financing implications.
- Recommend having the home inspected by a qualified home inspector and raise Kitec concerns with the home inspector.
- When writing an offer, add a clause or clauses to the agreement inquiring into the existence of Kitec plumbing and ensure the clause makes provisions for the buyer should the house have a Kitec system. Traditionally, similar clauses have been written for for Urea-formaldehyde foam insulation (UFFI) and asbestos.

While industry members may be able to identify Kitec plumbing, this should not replace the recommendation that a customer obtain a home inspection.

## What do I need to know and do about Kitec when working with a seller?

If you are working with a seller and there is Kitec plumbing in the home, it is important to discuss the potential issues that may arise with Kitec that may affect the sale as well as recommend your seller obtain independent legal advice about Kitec at their earliest opportunity.

In most cases, Kitec is visible upon inspection and therefore not considered a material latent defect—a defect that is not visible or discoverable through a reasonable inspection. Kitec does not have to be disclosed on the PCDS unless the seller has experienced problems with the system. If the seller has experienced problems with the Kitec system, it must be disclosed on the PCDS.

While at this time, there is no requirement for mandatory disclosure for systems in good working order, if a potential buyer asks about the existence of Kitec in the home, it must be disclosed. Kitec is the subject of a \$125 million class action suit in Canada and the United States and the topic of many news stories over the last six years. The first recall on Kitec fittings occurred in 2005. It is reasonable to expect buyers to be aware of and to make inquiries about the existence of Kitec, so it is important to set expectations with sellers. Even if the seller has never experienced a problem with their Kitec system, it may be an issue for potential buyers. If it is, buyers may request a price reduction, or system replacement, or wish to terminate the transaction.

Your seller may or may not be aware of the Kitec class action settlement, which creates a \$125 million settlement fund to be used by Canadian and American claimants to pay for the repair of buildings, residences, homes or other structures plumbed with Kitec systems. To be eligible to receive money from the settlement fund, claimants must complete and submit a claim form. Claims can be made regardless of loss and individuals are encouraged to submit a claim even if their system is working properly. The claim filing deadline is January 9, 2020, and claims submitted after this date will be rejected.

If your seller submits a claim, they are required to disclose to potential buyers that a claim was filed and if applicable, the terms of the release (as disclosed in the Agreement).

For more information, see the Kitec Settlement website at the following link: <http://www.kitecsettlement.com/faq.cfm>

# nova scotia real estate COMMISSION

— News Bulletin 177 —

## Put your “self” in self regulation

The Commission is looking for volunteers to serve on Licensing, Complaints Review, and Discipline Committees. Serving on one of the Commission committees provides excellent learning and networking opportunities. If you are interested in serving on one of the committees, send an email to the Registrar at [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca) with “Committee Volunteer” in the subject line. In the body of the email, please write a short note explaining why you would like to be a volunteer.

Industry members who wish to volunteer should be aware of both the seriousness of the position and the time commitment involved. As a member of Licensing or Complaints Review, you are required to attend a minimum of four meetings per year as well as additional time spent reviewing committee documents prior to the meetings. In the case of complaint review, the time spent reviewing complaint files is significant. As a member of the Discipline Committee, you may be called on at any time during the year to serve as a member of a hearing panel, which may require two to five days per hearing and additional time writing the hearing panel decision.



## Scammer alert!

Two HRM brokerages have been targeted in the last two weeks by a man attempting a deposit-fraud scam. In both cases, the brokerages were contacted through the corporate franchise website. The man attempting the scam alleges he is deaf and all communications must be conducted through text or email. Claims of being deaf in email scams, as well as phone scams using Deaf Relay Services are becoming more common, because it is a way for scammers to eliminate person-to-person phone conversations, which may reveal the scammer is of a different gender or nationality than claimed.

In this scam, the man contacted the brokerages wanting to purchase high-end properties sight unseen and put down extremely large deposits (\$80-150k). The man supplied a copy of a Delaware drivers licence to one broker, which identifies him as Robert S. Melvin. The drivers licence is photoshopped with a fake address and no signature. In a deposit-fraud scam, the fraudster pretends interest in a property and sends a large deposit cheque or bank draft to be deposited in the brokerage trust account. Shortly after, the fraudster backs out of the deal and asks for deposit back. Of course, the original cheque is phony, and the fraudster is counting on the money being refunded before the cheque bounces.

As is typical with email scams, the tone and subject lines of the scammer’s emails express great urgency; however the only true urgency is to complete the scam as quickly as possible. Fortunately, industry members at both brokerages quickly realized it was a scam and reported it to their brokers, who brought it to the attention of the Commission.



If you are being targeted by a scammer, please contact the Commission so a warning can be issued to the industry. If you want to report a fraud, or if you need more information, contact The Canadian Anti-Fraud Centre:

www.antifraudcentre-centreantifraude.ca

Toll Free: 1-888-495-8501

Toll Free Fax: 1-888-654-9426

Email: info@antifraudcentre.ca

## Deposits for mere postings

When a brokerage enters into a mere posting agreement with a seller, the brokerage's only role is to place the property on the MLS® System. The brokerage does not act on behalf of the seller, does not provide the sellers with additional services, is not named on the APS (unless representing the buyer), and does not hold the deposit for the seller. At the behest of NSAR, to ensure deposits are appropriately addressed in agreements of purchase and sale, when entering mere postings on the MLS® system, brokerages must indicate that they are not holding deposits in the REALTOR® Remarks section. That way, industry members preparing offers on mere postings will know to write alternate provisions for the deposit.

## Reporting judgments and lawsuits

Industry members are reminded that Bylaw 334 requires them to immediately inform the Commission of any

- bankruptcy proceedings
- judgments filed against them
- lawsuits in which they are named

While an industry member may be concerned about reporting this information to the Commission, withholding it automatically violates a bylaw.

## Bedrooms advertised must be bedrooms

To be considered a bedroom, the space must meet building code standards, which include a door to the outside, or a sprinkler system, or a window large enough to permit egress to the outside. The building code requirement to have egress windows has been in effect since 1980. If there is any debate over whether a room qualifies as a bedroom, contact the municipality in which the property is located and find out.

Questions have been raised as to whether industry members should be required to comply with building codes requirements for bedrooms in a city with so many older homes. The answer from a building inspector employed by HRM and a query of www.canlii.ca, the Canadian court decision database,

is yes. The building inspector said that building codes, in particular fire codes requiring a window large enough to permit egress or a sprinkler system, are there to keep people safe and can never be ignored.

Even in the absence of tragedy, Industry Members can be held liable for the representations they make. A 2004 Ontario Supreme Court judgment, an Industry Member was sued by his buyer clients for failing to inform them that a bedroom in the basement of the house they contracted to purchase was not a legal bedroom. The buyers tried to terminate the transaction when they discovered that the bedroom in the basement was not legal. The seller sued the buyers for non performance and won. The buyers in turn, sued their Industry Member for negligence, breach of contract and breach of fiduciary duty. In the judgment, the courts ruled that the Industry Member owed both an equitable duty and a legal duty to tell their client of the fact that he believed the basement bedroom might not be in compliance with municipal by-law. The judge awarded the buyers over \$70,000 in damages and \$20,000 in costs.

## Buyers and Sellers Guides are available

The Practical Guides for Buyers and Sellers are updated, redesigned and available for purchase at a cost of \$2 per guide. These booklets are a welcome resource for clients and have room on the inside cover for a personalized stamp, sticker, or hand-written note. The booklets can also be viewed, downloaded, and printed from the Commission's website at the following link: <http://nsrec.ns.ca/contentc664.html?doc=73>



# nova scotia real estate COMMISSION

— News Bulletin 175 —

## Free Nova Scotia Environment water brochure

For Environment Week, Nova Scotia Environment produced a homeowners brochure about safe drinking water. The brochure provides basic information about water safety as it relates to wells, septic systems, oil tanks, and the importance of hiring professionals. This free brochure, which can be added to industry members' presentation packages, will be available in Nova Scotia Environment offices in Yarmouth, Bedford, Bridgewater, Kentville, Truro, Amherst, Pictou, Port Hawkesbury, and Sydney the last week in June. The brochure is also available online at the following link: <http://goo.gl/YfBtA>



## Bylaw changes

The Commission Board of Directors approved a number of changes to the Bylaw. These changes include:

- Updates to broker/managing associate broker/associate broker and salesperson licensing requirements, as well as licensing requirements for individuals licensed in other provinces. The changes are to clarify the existing bylaw and to remove the challenge exam from out-of-province applicants to comply with the federal Agreement on Internal Trade requirements.
  - The sections that speak to the online licensing course are updated to reflect terminology changes to the online format. Bylaw 321 (e) was updated to confirm that online students cannot register for the exam until they have successfully completed their course modules.
- Bylaw 702, Article 38, *“Industry members shall not recommend the services of one specific service provider only. When making suggestions, industry members should provide information on three or more service providers and let the client decide which service provider they use”* was repealed. See the following article titled *“Repeal of Bylaw 702, Article 38”* for more information.

The updated Bylaw, with the most recent changes in bold text can be viewed and printed at the following link:

<http://nsrec.ns.ca/documents/Bylaw.pdf>

## Recommending service providers—best practices

The Commission Board of Directors repealed Bylaw 702, Article 38, which required industry members to provide a minimum of three service providers per specialty. The change was a result of a review of other Canadian jurisdictions, a review of relevant case law, and the development of the following best practices when referring service providers.

1. An industry member should refer a client to outside professionals in any circumstance where the matter is outside the industry member's knowledge.
2. An industry member should refer a client to outside professionals in any circumstance where the client may require independent advice and, subject to Bylaw 720, especially when such circumstances arise in a transaction-brokerage or customer-status situation (situations where you cannot give advice).
3. An industry member must disclose, in writing, any referral fees or other material benefits received as a result of any referral.
4. While an industry member now has the option of recommending a single service provider, the recommended best practice is to provide more than one and ideally at least three referrals in each circumstance.

5. While an industry member may be tempted to recommend one referral over another, care must be taken to ensure that it is the client and not the industry member that makes the determination of the referral that best meets the client's needs, as the industry member must ensure the client receives or is satisfied that they have received expertise related to the subject matter.

### Audit Form 1 is changing July 1st

The Commission is making changes to Audit Form 1 effective July 1st. The updated form will be emailed to brokers with their audit notice and posted on the Commission website under the Forms > Audit Forms section. Brokers, please ensure you use the updated form for your next audit.

### Tim Hortons is a great place to chat, but it's no substitute for an office

Tim Hortons is as Canadian as the maple leaf, beavers, and hockey. An industry member recently wrote in to the Commission suggesting Tim Hortons as topic for an article. Tim Hortons is no substitute for the privacy of an office when it comes to client relations and conducting business. Industry members have a fiduciary duty to keep client information confidential. If you are discussing business in Tim Hortons or any other public place with a client, what you say may be overheard by other customers. In most cases, the other customers don't care. In others, an industry member from a competing brokerage may be buying lunch 10 feet away from you. If a Tim's fix is needed, the best solution for you and your client is to pick up coffees to go.

### Approved sales corporation licences

Based on conversations about approved sales corporations, there appears to be some misconceptions about approved sales corporations. Having an approved sales corporation licence means the industry member can have commissions paid to their corporation, rather than to the individual, for tax purposes only. It does not give any other benefits or rights to the licence holder and it is not a licence to trade in real estate. The approved sales corporation licence is issued to the industry member by the brokerage in addition to the industry member's licence to trade in real estate. Both licences must be renewed on July 1st. If an industry member is not renewing their approved sales corporation licence, please cross it off on the Licence Renewal Summary in the renewal package.

### Using Google public URL removal tool

When a webpage is updated to remove a listing, a cached version of the listing may still appear in Google search results. In situations where the seller no longer wants the property to

appear with the brokerage, for example, when the property is listed with another brokerage, this can result in a complaint.

When this occurs, you can use Google's public URL removal tool to request removal of content that was removed from your webpage or someone else's webpage.

To use the public URL removal tool, you must have a gmail account, which is free, and be logged in. The tool is located at the following link:

<https://www.google.com/webmasters/tools/removals>

Using this tool, you must enter the exact URL of the page that has been modified, select the "Content has been removed from the page" option, and then specify one or more words that have been completely removed from that page. For example, for the listing 246 Sesame Street, enter the words 246 Sesame.

None of the words you enter can appear on the page; even if a word has been removed from one part of the page, your request will be denied if that word still appears on another part of the page. Be sure to choose a word (or words) that no longer appear anywhere on the page.

Once your request has been processed and found that the submitted word(s) no longer appear on the page, the search result will no longer show a snippet, nor will the cached page be available. The title and the URL of the page will still be visible, and the entry may still appear in search results for searches related to the content that has been removed, even if those words no longer appear in the snippet. However, once the page has been re-crawled and re-indexed, the listing will no longer appear.

### Continuing-education courses reminder

All Industry Members are reminded that annual continuing education requirements must be met by June 30th, 2013. The consequence of not completing your courses is that your licence will not be renewed July 1st and you will not be able to trade in real estate. **You will also be required to immediately stop all advertising, remove for-sale signs and take websites offline.**

The mandatory course for the 2012/2013 licensing cycle is broken into two parts. All industry members must take the three-credit course Client Relationships and one of the following courses:

- Standard Forms
- Mortgage Fraud/ Grow Ops
- Legislation and Commercial Practice

All industry members must also complete one three-credit elective course. The elective may be selected from the remaining mandatory options or any other elective/equivalency listed in the Education Source Book.

# nova scotia real estate COMMISSION

— News Bulletin 174 —

## Office closed Monday, May 20th

The Commission office is closed Monday, May 20th, for Victoria Day. The Commissioners and staff wish everyone a safe and happy Victoria Day weekend.

## Continuing-education courses reminder

All Industry Members are reminded that annual continuing education requirements must be met by June 30th, 2013. The consequence of not completing your courses is that your licence will not be renewed July 1st and you will not be able to trade in real estate. You will also be required to immediately stop all advertising, remove for-sale signs and take websites offline.

The mandatory course for the 2012/2013 licensing cycle is broken into two parts. All industry members must take the three-credit course Client Relationships, which is a half day workshop-based course that involves an in-depth analysis of the everyday situations and relationships industry members, buyers and sellers face.

To complete the rest of the six-credit mandatory requirement, industry members may choose from one of the following courses:

**Standard Forms**—a workshop-based course that involves taking a critical look at the issues, pitfalls, and common errors that occur with the use of standard forms in a typical residential file. This course is strongly recommended for both those who are new to the industry as well as industry veterans.

**Mortgage Fraud/ Grow Ops**—a lecture-based course delivered by members of the RCMP.

**Legislation and Commercial Practice**—a course developed specifically for those who practice in the commercial sector or those interested in the practice of commercial real estate. This course examines provincial and federal legislation as it relates to commercial real estate; it is not a commercial “how to” course.

All industry members must also complete one three-credit elective course. The elective may be selected from the remaining mandatory options or any other elective/equivalency listed in the Education Source Book.

## When all conditions are met

If a deposit is tied to “all conditions being met” the seller is at risk of not having a good-faith deposit to use as leverage should a sale not come together. Why? All conditions being met is ambiguous; it does not specifically direct the buyer to provide the deposit by a certain date. For example, the migration clause is a condition of the agreement. To avoid confusion, the Commission strongly recommends deposits being due on a specific date, or tied to a specific clause in the Agreement of Purchase and Sale.

## Designations and degrees

When completing renewal forms, please make sure to record any designations or degrees you have earned in the Designations section. A number of industry members state they have real estate designations and/or university degrees on their websites; however, nothing is recorded on their licensing forms. Also ensure you have documentation to support any degrees or designations if requested. Advertising credentials you don't have is false advertising.

## Scam alert!

A new email scam targeting industry members is making the rounds in Nova Scotia. In this phishing scam, the scammer selects potential targets from [www.realtor.ca](http://www.realtor.ca). The scammer uses the Email REALTOR® function on an MLS® listing to contact an industry member requesting more information about the property. When the industry member responds to the request, the scammer replied with the following:

Please view the document i uploaded for you using Google docs to see if this property meets requirement of my buyers prior to checking it this week.

just sign in with your email to view the document its very important,

[Please Click Here](#)

Chris Goldin.

When you click on the link, it takes you to the following login page.



At this point, the industry member who received the email realized it was a scam and forwarded the emails to the Commission. When you receive emails from unknown senders, it is important to be skeptical and ask questions. For example, Why do I have to log in to look at a document? The industry member who received the email had the listing. If they are the one with all the information on a property, why would they have to log in to look at a document? Also, if the email was sent from an industry member, they should know what their buyers want.

Do the logos look legitimate? Corporations have strict branding policies that all employees and licensed third parties must use. In this scam, the Google Docs logo is a hybrid of a squished Google logo and an Adobe Acrobat icon (two unrelated companies) and the login page look nothing like the actual Google Docs login page.

What is the website URL?

Scammers will hide the actual URL in a shortened hyperlink. In this scam, it just says “Please click here.” When you look at the URL in your web browser, it is <http://d10513381.u51.c7.ixwebhosting.com/googledoc/google%20doc/google.doc.html>

The real Google Docs URL is: <https://docs.google.com/>

The login details submitted on the fake form are collected by scammers to hijack email accounts. Once the scammers have your log in information, they can access your email account and any services linked to your email account, like Facebook, Youtube, Pinterest and any other account that uses your email address. The scammers can then use these hijacked accounts to pose as you and launch ongoing spam and scam attacks. They are also able to access and misuse private information you stored in these services.

Never enter your email address and password because a link you clicked in an email asks for it, even if it appears to be a well known site, like Google Docs. If you wish to create an account for an online service, open a web browser and type the address to the online service yourself.

## Defects and disclosure

The most common complaints about the disclosure of defects are failure to disclose well-water quality/quantity and dysfunctional septic systems. Some of these disclosure issues have resulted in legal claims against sellers and the seller’s real estate representatives.

As a seller’s representative, you are required to disclose your knowledge of any material issues regarding water and septic systems to the buyer or buyer’s representative. You must also ensure the seller is fully aware of his or her disclosure obligations to potential buyers.

If the seller asks you whether a particular issue should be disclosed, advise your client to seek legal advice rather than give your own opinion on the matter. The problem with giving your opinion on a material-defect issue is if the seller follows your advice and is then sued by the buyer, you are likely to be sued yourself. Your duty is to provide the seller with the right tools to make informed decisions, not to convince him or her of what course to take.

As a buyer’s representative, your job is to provide the buyer with the right tools to make an informed decision. You need to make sure your buyer knows what disclosures/warranties to request from a seller. They also need to know from the onset that a typical home inspection has limitations and important considerations like water tests and septic system evaluations usually aren’t addressed by the inspector. You need to ensure your buyer knows exactly what options are available with respect to verifying safe drinking water, adequate water supply and a properly functioning septic system.



# nova scotia real estate COMMISSION

— News Bulletin 173 —

## AGM highlights

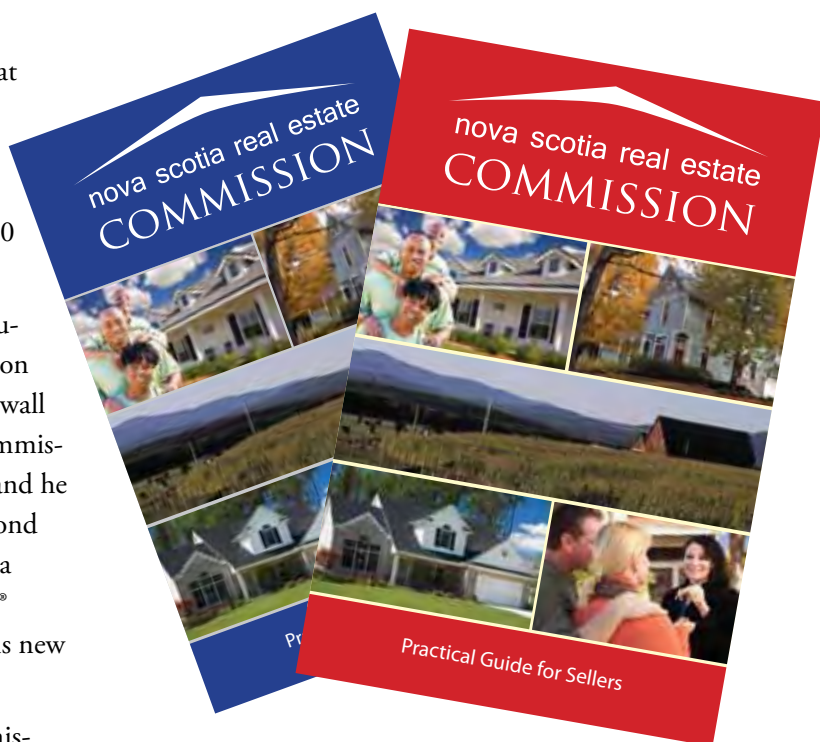
The Commission AGM was held Thursday, April 18th, at the Ramada hotel in Burnside. The Commissioners and staff thank all who attended. Neil Black of Century 21 ABC Realty was the lucky winner of our draw for a free licence renewal for the 2013-2014 licensing cycle, a \$270 value. Congratulations Neil!

Commissioner Donna Anderson, whose term ends in August, was thanked in absentia for her six years of service on our Board of Directors. Donna will be presented with a wall plaque at the next Board of Directors' meeting. The Commission also said farewell to Commissioner Gordon Burns and he was presented with a wall plaque. Gordon began his second term last April, but resigned effective April 18th to take a position on the Nova Scotia Association of REALTORS® Board of Directors. We wish Gordon all the best with his new appointment.

The Commissioners and staff also welcomed two Commissioners to the Board of Directors. Lisa White, broker of Evolution Real Estate Services, was elected to serve a three-year term. Paul Doucet, managing associate broker of Royal LePage Atlantic and outgoing elected Commissioner, was re-elected to serve a two-year term. Congratulations Commissioners!

## Buyers and Sellers Guides are available

The Commission is pleased to announce that the Practical Guides for Buyers and Sellers are updated, redesigned and available for purchase at a cost of \$2 per guide. These booklets are a welcome resource for clients and have room on the inside cover for a personalized stamp, sticker, or hand-written



note. The booklets can also be viewed, downloaded, and printed from the Commission's website at the following link: <http://nsrec.ns.ca/contentc664.html?doc=73>

## Continuing-education courses

All Industry Members are reminded that annual continuing education requirements must be met by June 30th, 2013. The consequence of not completing your courses is that your licence will not be renewed July 1st and you will not be able to trade in real estate. You will also be required to immediately stop all advertising, remove for-sale signs and take websites offline.

The mandatory course for the 2012/2013 licensing cycle is broken into two parts. All industry members must take the three-credit course Client Relationships, which is a half day workshop-based course that involves an in-depth analysis of the everyday situations and relationships industry members, buyers and sellers face.

To complete the rest of the six-credit mandatory requirement, industry members may choose from one of the following courses:

**Standard Forms**—a workshop-based course that involves taking a critical look at the issues, pitfalls, and common errors that occur with the use of standard forms in a typical residential file. This course is strongly recommended for both those who are new to the industry as well as industry veterans.

**Mortgage Fraud/ Grow Ops**—a lecture-based course delivered by members of the RCMP.

**Legislation and Commercial Practice**—a course developed specifically for those who practice in the commercial sector or those interested in the practice of commercial real estate. This course examines provincial and federal legislation as it relates to commercial real estate; it is not a commercial “how to” course.

All industry members must also complete one three-credit elective course. The elective may be selected from the remaining mandatory options or any other elective/equivalency listed in the Education Source Book.

### Commission fax machine interruption

The Commission’s photocopier/fax machine was replaced on Monday, April 22nd. Due to technical difficulties, the Commission’s fax machine experienced intermittent service until Wednesday afternoon. If you sent a fax to the Commission during this time frame, please check your fax machine to confirm it was received. If it was not received, please send the fax again.

### An Introduction to Property Law in the Maritimes

The Nova Scotia Community College is offering an Introduction to Property Law in the Maritimes course. The course is held on three consecutive Fridays: May 24, May 31, June 7 and the exam is written the morning of June 14, 2013. Applicants must register by May 15th. The course covers the following topics:

- The Canadian Legal System
- Contract Law
- Estates in Real Property

- Restrictive Covenants
- Land Use Controls
- Land Registration Systems
- Condominiums
- Possessory Title
- Matrimonial Property Legislation
- Wills and Estates
- Documents of Conveyance
- Mortgages
- Easements
- Deeds
- Expropriation
- Survey Law

For more information or to register contact NSCC:

Tel: (902) 584-2228

Fax: (902) 584-7211 or

e-mail: [bea.sturney@nsc.ca](mailto:bea.sturney@nsc.ca)

### Put up and take down for sale signs as specified in the brokerage agreement

The Commission continues to receive complaints of signs being erected without written permission and of signs being left up after the brokerage agreement expires. Bylaw 710 states:

“Signs which designate property as being on the market, such as for sale, for rent, will develop to suit, etc. may not be placed on the property without the direct consent of the seller of that property or an authorized representative of the seller. Said advertising shall only be carried out during the currency of the agreement, and must be removed by the expiry date of the listing agreement or other written authority.”

A failure to comply with Bylaw 710, may result in charges and a fine.

### Appointments are always required

Any time an industry member enters a property, an appointment must be made with the listing brokerage, or as instructed by the listing brokerage. While it may be tempting, especially when a property is vacant, to save time and enter the property without setting up an appointment, it is prohibited. Entering a property without permission is considered unprofessional conduct under the Act and the Bylaw, and is also trespassing, which is a summary offence under the Protection of Property Act.

# nova scotia real estate COMMISSION

— News Bulletin 172 —

## Commissioner election—a second request for nominations

The Commission is holding two elections for positions on the Commission Board of Directors. One election is for a three-year term and the second election is for a two-year term. Both elections will take place at the Commission Annual General Meeting on April 18th at the Ramada Plaza Park Place Hotel, 240 Brownlow Ave, Dartmouth.

All nominations must be received by the Commission office no later than **March 19th, 2013, at 4:30 p.m.** The first person to receive 50 per cent plus one of the ballots cast in each election will be declared elected.

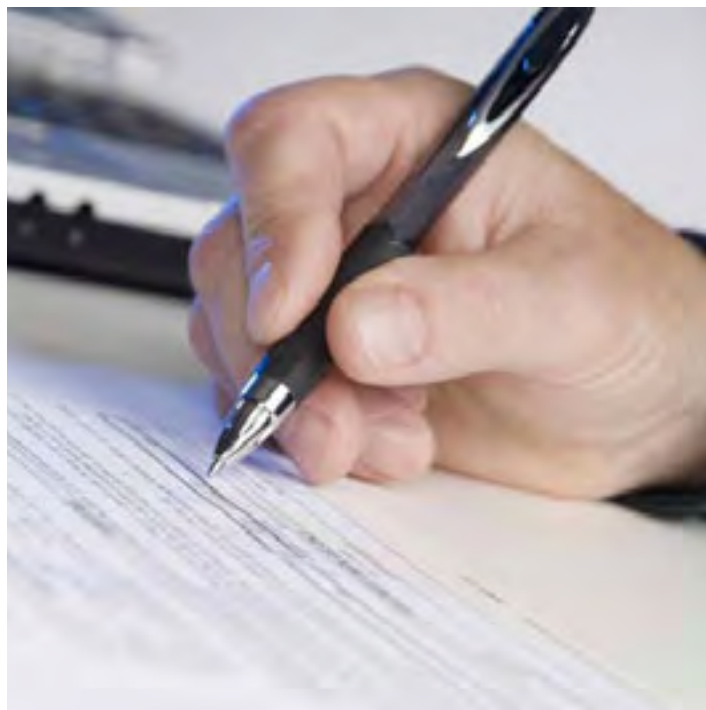
All industry members in good standing are eligible to let their name stand. Those nominated must not have been found guilty of any offence by the Commission or a board/association during the past two years for violation of the Code of Conduct or Professional Standards.

Industry members interested in serving should be aware of both the seriousness of this position and the time commitment involved. The industry member elected to the Commission will have to attend five Commission meetings per year and serve on one or more Commission committees.

Please feel free to call the Commission if you have any questions or need more information before you put your name forward.

## Escalation clauses do not comply with the Act

This is a reminder to the industry that escalation clauses do not comply with the Real Estate Trading Act. An escalation clause is a formula used in place of an actual purchase price, i.e. \$X amount over the highest price offered in competing APSs up to a maximum price.



The Commission asked other Canadian jurisdictions how they handle the escalation clause and the answers varied, ranging from absolutely prohibited to permissible but strongly discouraged. The determining factor in whether escalation clauses were permitted was the jurisdiction's legislation.

The Commission obtained a legal opinion on the use of escalation clauses under the Real Estate Trading Act. The opinion stated that such a clause does violate the requirement of Section 30 (D) of the Act: Every offer to purchase real estate obtained by a licensed person, before execution by either the seller or the buyer, shall clearly show: (d) the price offered; Because escalation clauses violate the requirements of the Act, industry members cannot use them when preparing offers.



## Commissioner nomination form

I, \_\_\_\_\_, licensed as a \_\_\_\_\_ with the \_\_\_\_\_ brokerage in the city/town of \_\_\_\_\_ consent to being nominated for election as a Commissioner of the Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

The industry members signed below nominate the above industry member for election to the Nova Scotia Real Estate Commission (Must be signed by ten current industry members):

<i>Name (please print)</i>	<i>Signature</i>	<i>Brokerage</i>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

**Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission  
Nominations must be received by the Commission no later than 4:30 p.m., March 19th, 2013.**

# nova scotia real estate COMMISSION

— News Bulletin 171 —

## Commissioner election—request for nominations

The annual election for an industry member to serve on the Commission Board of Directors will take place at the Commission Annual General Meeting on April 18th at the Ramada Plaza Park Place Hotel, 240 Brownlow Ave, Dartmouth.

Any industry member who wishes to be placed on the nomination list must complete the attached form and have it signed by ten industry members.

Nominations must be received by the Commission office no later than **March 19th, 2013, at 4:30 p.m.** The election is for one commissioner with a three-year term commencing May 1st, 2013. The first person to receive 50 per cent plus one of the ballots cast will be declared elected.

All industry members in good standing are eligible to let their name stand. Those nominated must not have been found guilty of any offence by the Commission or a board/association during the past two years.

Industry members interested in serving should be aware of both the seriousness of this position and the time commitment involved. The industry member elected to the Commission will have to attend five Commission meetings per year and serve on one or more Commission committees.

Please feel free to call the Commission if you have any questions or need more information before you put your name forward.

## Continuing professional-education courses

All Industry Members are reminded that annual CPE requirements must be met by June 30th, 2013. The consequence of not completing your courses is that your licence will not be renewed July 1st and you will not be able to trade in



real estate. You will also be required to immediately stop all advertising, remove for-sale signs and take websites offline. With a little over four months left, the Commission strongly recommends that you do not leave this to the last minute. Take the time to get your courses in the winter while business is reasonably quiet. Don't wait until May-June when you are very busy.

## Put up and take down for sale signs as specified in the brokerage agreement

The Commission recently received complaints of signage being erected without written permission and of signage being left up after the brokerage agreement expires. Bylaw 710 states:

“Signs which designate property as being on the market, such as for sale, for rent, will develop to suit, etc. may not be placed on the property without the direct consent of the seller of that property or an authorized representative of the seller. Said advertising shall only be carried out during the currency of the agreement, and must be removed by the expiry date of the listing agreement or other written authority.”

In previous discipline case, brokers were charged \$1000 and salespeople were charged \$500 for placing signage on property without the sellers' written authorization.

### Interfering with others' signage

The Commission has received several disturbing reports of industry members' for-sale signs being vandalized—signs being torn from the ground and thrown in ditches and signs being defaced. This is grossly unprofessional. Any industry member who vandalizes another industry member's sign is in violation of Act Sections 22 and 36, and Bylaw 702 Articles, 17, 26, 27, 28, and 35. In previous discipline cases, industry members charged under Act Section 22 received a licence suspension in addition to monetary penalties. It is also a violation of the Criminal Code of Canada for trespassing and mischief.

### Defects and disclosures: well and septic

As a seller's salesperson, you are required to disclose to a buyer/buyer's representative your knowledge of any material issues concerning water quality or quantity and the functionality of the septic system. You are also required to ensure that your seller is fully briefed on his/her disclosure obligations to potential buyers.

If a question is raised by the seller concerning whether or not a particular issue should or should not be disclosed, do not advise them of your own opinion, but rather refer them to seek legal advice. If you do express an opinion and the seller takes your advice and is subsequently sued by the buyer, you will likely be sued yourself. Your duty is to provide the seller with the right tools to make informed decision, not to convince him/her of what course to take.

As a buyer's representative your job is to make sure the buyer is provided with the right tools to make an informed decision. The buyer should know what disclosures/warranties they should request from the seller. The buyer should also know up front that a typical home inspection has limitations and that important considerations like water quality and quantity tests and septic system evaluations are not usually addressed by the inspector. The buyer should be told what options they have with respect to verifying safe drinking water, adequate water supply and a proper working septic system.

### Free mortgage publications for client presentation packages

The Financial Consumer Agency of Canada (FCAC), an independent body working to protect and inform consumers of financial products and services, is offering high-quality mortgage publications to industry members for free to distribute to clients and customers. All industry members have to do is go to this link: <http://tinyurl.com/42rjhau>, select the publications they want, email their request to the FCAC and the FCAC will mail them to your door. The kits are available in French and English.

### Verifying zoning

Who is responsible for verifying the zoning information for a property—the listing Industry Member or the buyer's Industry Member? The listing Industry Member is obligated to discover facts about a property to avoid errors, misrepresentations and concealment of pertinent facts. As well, the listing Industry Member must ensure a true presentation in all advertising. This includes providing the correct zoning information. As demonstrated in the following Legally Speaking excerpt, failing to provide accurate zoning information can cost you time, money, and your reputation.

*"A representative advertised that buyers could build their dream home on a lot with the best view in town. Neither the seller nor the representative were aware that the municipal bylaws only allowed construction on lots connected to a sewer, or with an area of at least two acres. Neither condition applied, and the representative was sued successfully for negligent misrepresentation. The BC Court of Appeal held the representative had a duty to know the basic requirements of municipal land use bylaws; in this case, whether the advertised lot was in fact a building lot."*

The buyer's Industry Member is not off the hook. The buyer's representative is responsible for locating suitable properties for their client, as well as discovering any relevant facts about any property for which the buyer is considering making an offer.

For example, if a buyer wants to buy a piece of land to build a horse farm, the buyer's Industry Member must ensure that the properties they locate for their buyer are zoned to permit agricultural development.

1. Legally Speaking, Number 380, February 2005. Reprinted with permission of the British Columbia Real Estate Association.



## Commissioner nomination form

I, \_\_\_\_\_, licensed as a \_\_\_\_\_ with the  
\_\_\_\_\_ brokerage in the city/town of  
\_\_\_\_\_ consent to being nominated for election as a Commissioner of the  
Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a  
Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

The industry members signed below nominate the above industry member for election to the Nova Scotia Real Estate Commission (Must be signed by ten current industry members):

<i>Name (please print)</i>	<i>Signature</i>	<i>Brokerage</i>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

**Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission  
Nominations must be received by the Commission no later than 4:30 p.m., March 19th, 2013.**

# nova scotia real estate COMMISSION

— News Bulletin 170 —

## Licence suspensions

The Commission suspended the licences of the following individuals for failure to pay their errors and omissions insurance. These industry members are prohibited from trading in real estate until their errors and omissions insurance is restored.



This requirement is also reiterated in the amendment to agreement in purchase and sale:

“Notice of dissatisfaction with the home inspection shall be accompanied by the pertinent section of a written report.”

The termination and mutual release form also requires attaching “pertinent documentation” that caused the transaction to fall.

If you wish to amend or terminate an agreement based on the findings of an inspection, the pertinent sections of the report must be provided to the seller’s industry member. The seller’s industry member must retain this documentation in the brokerage transaction file.

On a number of audits, the compliance auditor has noted this documentation is missing from transaction files. When questioned, some brokers have explained that there was no formal inspection; rather a family member or a buyer performed their own inspection, but no written report was created and therefore none was supplied. This does not satisfy the requirements of the three clauses quoted previously. The inspection clause of the agreement of purchase and sale states that pages from a “written inspection report” will be provided to the seller if the buyer is dissatisfied with the inspection. Choosing to conduct an informal inspection does not negate this requirement; the buyer is still required to provide the pertinent sections of a “written inspection report” as per the agreement of purchase and sale.

## Attach and retain pertinent section of inspection report

The agreement of purchase and sale (APS) inspection clause states the following:

“... If notice to the contrary is being provided, it shall be accompanied by the pertinent sections of a written inspection report, following which either party shall be at liberty to terminate this Agreement and the deposit shall be returned to the Buyer.”



# nova scotia real estate COMMISSION

— News Bulletin 169 —

## Stigmatized properties

Certain events may cause a property to be described as a “stigmatized property.” This term is sometimes applied to a property that has had some circumstance occur in or near it, but which does not specifically affect the appearance or function of the property itself. Examples of these might include:

- a death occurred in the property
- the property was robbed or vandalized
- reports that the property is haunted

The significance of these or any other occurrence will be affected by a person’s values and perceptions, ethnic background, religion, gender, age and other individual concerns. Therefore, to determine with any certainty all the possible occurrences that might cause a property to be considered “stigmatized” is daunting if not impossible. Further, in the event of a lawsuit resulting from an undisclosed stigma, the buyer would have to prove what harmful effect the stigma had because these issues are often personal ones that do not affect the appearance, function or use of the real estate.

In Nova Scotia, the real estate seller and the seller’s representatives are not required by provincial legislation to disclose this type of information about a property. Therefore, when working with a buyer, it is important to ask them if they have any specific concerns regarding stigmas. When informed by the buyer, you can make the appropriate inquiries and sellers and their representatives are required by law to respond truthfully and with sufficient detail to avoid misrepresenting the situation. The buyer’s industry member must make the request in writing and the response must be provided in writing.

Keep in mind the current owners may have no knowledge of events that occurred before their ownership or the property may have been rented out and the seller may not know of events that occurred during the rental period. For serious concerns, buyers are advised to make inquiries with the local police.



## Stigma clauses

The compliance auditors found the following stigma clause in a number of brokerage transaction files:

“The Seller warrants that, to the best of their knowledge, belief and understanding that this property has not been stigmatized by any act or occurrence which would be considered traumatic or horrific to the buyer.”

In terms of protecting buyers from stigmas, this clause is ineffective for a number of reasons. One, buyers must determine for themselves what occurrences would make a house unin-

habitable, because what is intolerable for one person may not even cross the mind of another. Two, the clause asks the seller to think for the buyer, i.e. what events the seller thinks the buyer might consider traumatic or horrific. Regardless of what happened in the home, the seller may defend any lack of disclosure by stating they didn't consider it horrific or traumatic. Three, the seller may have never lived in the house; even if they have, they may have no knowledge of events prior to the time they owned the house.

The compliance auditors also found this effective stigma clause in some transaction files:

“The Seller warrants to the Buyer that to the best of their knowledge, this property has not been stigmatized by the following acts or occurrences

\_\_\_\_\_ that the buyer considers traumatic or horrific. The Buyer must indicate a specific act or occurrence, or this clause will be considered deleted.”

This clause forces the buyer to be specific and list the occurrences, for example, murder/suicide/home invasion/bawdy house, etc. that they would find intolerable. It is important to note this clause provides the buyer with only what the seller knows about the property, which may be nothing. If stigmas are of critical concern, the buyer must perform their own due diligence and make inquiries of the police, neighbouring properties, as well as perform Internet searches of the property address.

### “Selling agent” commission reductions

In reviewing seller brokerage agreements, a number of them contain clauses like “If [the listing industry member] sells this house, the commission will be 4%” or “if [the listing industry member] is the selling agent, the commission will be 4%”.

The intent of the clause is to reduce the commission payable by a set percentage if the industry member “double-ends” the deal. The problem with this clause is that it uses real estate jargon that has a different meaning than the literal meaning of the clause. In real estate jargon, the “selling agent” is the industry member who represents the buyer. Literally, this clause says if the listing industry member sells the house (which they were expressly contracted by the seller to do) the commission payable will be reduced. Regardless of whether there is a cooperating brokerage, a savvy seller may push for the discounted commission. The listing industry member's defense would be to say that what they wrote is not what they meant, which is unlikely to sway a small-claims-court adjudicator.

### Why the financing clause is important

The Commission has published several articles about how letters of failed financing from financial institutions are required only if specified in the agreement of purchase and sale. Unless this requirement is written into the agreement, the financing clause requires written notice from the buyer or buyer's representative only. Several industry members have written the Commission stating that without proof of failed financing from a bank, that the clause might as well be deleted, because the buyer could be lying to get out of the deal. While it is true, the buyer could be lying to get out of the deal, the financing clause is just one of a number of clauses the buyer can use to terminate. The buyer could also use the PCDS, Tax Verification, Lawyer's Approval, Insurance, or Inspection clauses to terminate.

What the finance clause does is set a date by which the buyer must obtain satisfactory financing. If the date passes and notice to the contrary is not received, the seller can be reasonably assured that the buyer has financing and can purchase the property. If financing was not addressed in the agreement, the seller has no assurances of the buyer's ability to purchase until the day of closing. If a deal is going to terminate, sooner is always better than later for all parties.

### Licensing applicants must provide criminal record check as of January 1, 2013

As of January 1, 2013, the following individuals:

- First-time salesperson applicants
- First-time associate broker, managing associate broker, and broker applicants
- Any industry member who is unlicensed for more than 90 days

must provide a Vulnerable Sector Check, no older than six months, when they apply to be licensed. A Vulnerable Sector Check is required for individuals who are in a direct position of trust or authority over children, the elderly, the disabled, or another vulnerable group. The check includes a name-based search of the National Repository of Criminal Records, a search of locally held convictions, and a query of the pardoned sex-offender database.

Vulnerable Sector Checks can be obtained from RCMP detachments or from the Halifax Regional Police.

For RCMP detachments, see: <http://goo.gl/sg25D>

For Halifax Regional Police, see: <http://goo.gl/Pw42t>

# nova scotia real estate COMMISSION

— News Bulletin 168 —

## Observing Remembrance Day

The Commission reminds all Industry Members that no brokerage activities of any kind are permissible on Remembrance Day, which is on a Sunday this year, including open houses, property showings, opening offices or negotiating transactions. All trading may resume on Monday, November 12th.

Observance of Remembrance Day in Nova Scotia is defined in the Remembrance Day Act, which specifically prohibits trading in real property. The preamble of this act is quoted below.

### *An Act Respecting the Observance of Remembrance Day*

*WHEREAS our heritage of freedom and human dignity has, under Providence, been preserved through the unselfish devotion of those who sacrificed health, limb and life itself in World War One, World War Two and the Korean Conflict;*

*AND WHEREAS the eleventh day of November has traditionally been set aside throughout Nova Scotia as a day to be kept and observed in each and every year under the name "Remembrance Day";*

*AND WHEREAS it is fitting that on Remembrance Day the people of Nova Scotia should pay grateful tribute to the memory of those who have died, cherish those who have suffered grievous injury, and dedicate themselves anew to the maintenance and furtherance of the great ideals hallowed by those sacrifices...*

As Remembrance Day falls on a Sunday this year, the Commission office is closed Monday, November 12th in observance of the holiday.

## **IMPORTANT: Licensing applicants must provide criminal record check as of January 1, 2013**

Currently, new licensees must consent to a criminal record check as part of the licensing process. The criminal record check is then performed by the Licensing Officer. One



problem that arises from the current system is the time lapse between the applicant being licensed and the return of the criminal record check. In some cases, the applicant failed to disclose a criminal record, which isn't discovered until the criminal record check is processed and returned two weeks later to the Licensing Officer.

To ensure that the Commission fulfills its mandate of consumer protection, the Licensing Committee recommended to the Board of Directors that new applicants provide their own

criminal record check at the time of licensing. The Board of Directors approved the request. The requirement to provide criminal record checks is already in place in other Canadian real estate jurisdictions and is commonplace in many other professions in Nova Scotia, like healthcare and tech firms.

As of January 1, 2013, the following individuals:

- First-time salesperson applicants
- First-time associate broker, managing associate broker, and broker applicants
- Any industry member who is unlicensed for more than 90 days

must provide a Vulnerable Sector Check, no older than six months, when they apply to be licensed. A Vulnerable Sector Check is required for individuals who are in a direct position of trust or authority over children, the elderly, the disabled, or another vulnerable group. The check includes a name-based search of the National Repository of Criminal Records, a search of locally held convictions, and a query of the pardoned sex-offender database.

Vulnerable Sector Checks can be obtained from RCMP detachments or from the Halifax Regional Police.

For RCMP detachments, see: <http://goo.gl/sg25D>

For Halifax Regional Police, see: <http://goo.gl/Pw42t>

## New Commission Policies Online

At the September Board of Directors meeting, the board approved the following policies:

**Remuneration options for unlicensed assistants**—industry members may remunerate their unlicensed assistants in any manner that is agreed upon by the industry member, their broker, and the assistant. The methods of remuneration must be captured in a written agreement and be mindful of what unlicensed assistants are permitted and not permitted to do.

**Purchasing a retiring industry member's business**—provides an alternate remuneration method, rather than an out-right purchase, for industry members who wish to purchase a retiring industry member's business/ client list.

**Rebating a portion of referral fees to buyers and sellers**—brokerages that refer a seller or a buyer to another brokerage may rebate a portion of the referral fee back to that buyer or seller.

See the policies for complete details:

<http://www.nsrec.ns.ca/CommissionPolicies.html>

## Donations to registered charities not an incentive

The Commission received several calls recently about whether donating a portion of a commission to a registered charity was considered an incentive. It is not. An incentive is something offered to a party to the transaction in exchange for using a brokerage's services. A charity is not a party to the transaction. Any industry member who wishes to donate a portion of their commission to a registered charity as part of their promotion and advertising may do so.

## All for sale signs must be approved by the registrar

All industry members are reminded that brokerage signage (for-sale signs), must be approved by the registrar, as per Bylaw 307 (d).

## Initialling struck clauses—best practice

The industry best practice when striking a clause from a contract is to strike the clause and have the party or parties to the contract record their initials in the margin next to the clause.

## Letters of failed financing not required

There appears to be a misunderstanding among some industry members about what is required to terminate an agreement of purchase and sale because of a buyer's inability to obtain satisfactory financing. There have been several instances where a listing industry member has insisted on a letter from the lending institution confirming a buyer's inability to obtain financing. Under the standard clauses in the agreement of purchase and sale, this is not a requirement. The only way it would be a requirement is if a clause is written into the agreement of purchase and sale that specifically requests a letter from the lender.

## Get contract extensions in writing

If a date in a contract needs to be extended, whether it is financing, inspection, duration, etc. the extension must be done, in writing, before the original deadline expires. The compliance auditors, through the course of auditing transaction files, have seen instances where seller brokerage agreements were amended to extend the length of the contract, but the amendments were created and signed after the original seller brokerage agreements expired. When a contract expires, it ceases to exist. You cannot amend something that doesn't exist.

# nova scotia real estate COMMISSION

— News Bulletin 167 —



## Miles for Meals campaign

Commission Chairperson Dennis Richards presents NSAR Executive Officer Roger Boutilier with a cheque for \$500 in support of the Miles for Meals campaign. The Commission Board of Directors applauds Roger's hard work and dedication to a worthy cause, as well as the generous support and donations of the real estate community. The REALTORS® Miles for Meals campaign raised over \$16,000 for FEED NOVA SCOTIA.

## A tale of two buyer agency agreements

Real estate lawyer, industry member, and author Mark Weisleder, wrote two articles this year about two industry members who sued the buyers they represented for commission after the buyers bought privately. In both cases, the buy-

ers signed buyer agency agreements; however, one industry member was successfully awarded the full commission owed, while the other was denied any commission. The reason for the two different verdicts is found in the details of the cases.

In the case of Forjani v. Vali, the successful suit, industry member Forjani worked with buyer Vali for a period of two and a half months. Vali signed a buyer agency agreement; however her partner, Sadri, refused to sign. At the time, Vali was purchasing the property under her name only, Sadri's signature was not required. Forjani had shown the buyers several properties and prepared three offers on different properties. All the offers were rejected. After the last rejected offer, the buyers blamed Forjani and wanted to terminate the agreement. Forjani refused.

That same day, Sadri, Vali's partner approached the listing industry member of the last rejected offer and jointly purchased the property with Vali. Forjani found out about the sale and sued for lost commission.

When the judge reviewed the facts of the case, the judge found that Forjani had done her duty representing Vali, the terms of the buyer agency agreement were clear to the parties, and that the buyers were clearly introduced to the property by Forjani as demonstrated by the fallen offer and by emails between the parties. In the written decision, the judge stated: "The totality of the evidence makes it abundantly clear that Ms. Vali and Mr. Sadri sought to structure the transaction and their affairs in a manner designed to avoid any liability to Re/Max or its assignee Ms Forjani... The efforts of Ms. Vali and Mr. Sadri to obtain the services of two real estate agents for the price of one cannot succeed."

In the case of Babbar v. Kagemana and Mulcanyandwi, the unsuccessful suit, Kagemana and Mulcanyandwi saw Babbar's name on a for sale sign and over the course of a few days,

Babbar showed them several properties. The couple decided to put in an offer, at which point Babbar had them sign a buyer agency agreement. When the offer was rejected, the couple purchased a property directly from a builder. Babbar learned of the purchase and sued for lost commission.

Unlike the Forjani v. Vali case, the judge found that Babbar did not do his duty representing the couple because he failed to explain the buyer agency agreement. The couple thought the buyer agency agreement was just something they had to fill out before putting in an offer. They did not know the contract would continue for another six months. Babbar argued that he had spent several hours explaining the contract, but he had no notes or clear recollections of times, dates or events. The couple did have detailed notes and recollections of the times and dates involved and all of it contradicted Babbar's testimony. The judge ruled that the couple did not understand the terms of the contract and when they signed the Buyer Agreement, they thought it meant something else. Babbar's claim for commission was denied.

As demonstrated in these two cases, explaining the purpose, duration, and obligations of a buyer agency agreement and making sure buyers understand is of the utmost importance. As is keeping detailed notes of events and saving all related correspondence, because the time between when the event occurred and the claim proceeds through the courts can be years.

## New Commission policies online

At the June Board of Directors meeting, the board approved the following policies:

**Conducting open houses for another brokerage**—documents the requirements for one brokerage to conduct an open house for another brokerage and provides suggested paperwork for an amendment/addendum. The policy also includes the requirements for common law and designated agency.

**Electronic document storage**—documents the requirements for storing documents electronically in accordance with the Commission Bylaw.

**Merging/closing brokerages**—documents the requirements for closing or merging a brokerage to ensure agency and record keeping requirements are maintained.

The policies can be viewed here:

<http://www.nsrec.ns.ca/CommissionPolicies.html>

## Verbal agreements do not protect anyone, including you

Bylaw 702, Article 11, requires all agreements regarding real estate transactions be in writing in clear and understandable language, expressing the specific terms, conditions, obligations and commitments



of the parties to the agreement. The reason industry members are required to ensure all agreements are in writing is to protect all parties to the transaction. If a condition or obligation is not put in writing, it is very difficult to prove the condition/obligation was ever agreed to in the first place. In terms of discipline, failing to comply with Bylaw 702, Article 11 is one of the most common charges. The following scenarios are from cases that went before Complaint Review and industry member(s) were charged and fined.

A financing clause in an agreement of purchase and sale was verbally extended, but never put into a written amendment. When the buyer tried to terminate before the last verbal extension, the seller refused, pointing to the expired financing clause in the agreement and the lack of written documentation to say otherwise. Had the industry members ensured the financing clause extension was in writing, the deal likely would have terminated without issue.

A buyer and their industry member put an offer in on a property listed by another brokerage. The initial offer was followed by a series of verbal offers and counter offers. The parties came to a final agreement verbally, but that agreement was never put into writing. A day later, the buyers decided not to proceed with the purchase. There was nothing either industry member could do to stop the buyers from walking away from the deal, because in the absence of a written agreement, there was nothing to prove that the transaction was negotiated and agreed upon.



## Incomplete licence applications sent back

When the Licensing Committee met on September 10th, one of the issues addressed was the submission of incomplete licence applications. The committee ruled that all incomplete licence applications are to be stamped incomplete and returned unprocessed to the broker for completion.

## Beware of and report email scams

In the last week, two new email scams were reported to the Commission. One was an attempted deposit scam through Western Union and the second would have been a deposit scam, had it proceeded. With easy access to contact information over the internet and the nature of sales, which requires follow up on leads, the real estate industry is an easy target for scammers.

Here are some tips to help determine whether the email you received is spam:

- They send you their biography and it is from Wikipedia. Anyone of sufficient celebrity to have a Wikipedia page, will have their own website, or, in the case of notoriety, won't want you to see what is on their Wikipedia page.
- They use free email accounts, like Yahoo, Gmail, or Hotmail. Typically, the email address and title of the individual is what you would expect to receive from a dedicated work email account with its own mail server, not a free account.
- There is an excessive use of formal and professional titles like Mr., Mrs., Dr., Sgt., Lt., etc.
- Emails often have a false sense of urgency, are exceedingly formal and flowery, or use obscure English words, often relying on the third or fourth meaning of a word.
- Emails contain excessive spelling and grammar errors. Scammers use free internet translation programs, like Google Translate, which makes a mess out of syntax and grammar.
- Generic greetings like, "My Dear", "Dear Beloved", "Greetings to you", "Dearest Brother" or "Dear Sir/Madam" are sometimes used.
- "Almighty God", "God", or "God's Blessings" or other religious words or phrases may be mentioned repeatedly in the email. While there may be praying involved in the

purchase or sale of a house, typically it doesn't start at first contact.

- It is implied or stated that they are wealthy, have an urgent need to purchase or rent property, and want to make a very large down payment. Despite this, they may ask you for money to help them proceed with the transaction.
- You are one of thousands who received the email. Copy a sentence or the subject line from the email and paste it into a search engine. In many cases, the scam is ongoing and posted on scam reporting websites.

If you want to report a fraud, or if you need more information, contact The Canadian Anti-Fraud Centre:

[www.antifraudcentre-centreantifraude.ca](http://www.antifraudcentre-centreantifraude.ca)

Toll Free: 1-888-495-8501

Toll Free Fax: 1-888-654-9426

Email: [info@antifraudcentre.ca](mailto:info@antifraudcentre.ca)

## CPE: more options in 2012/2013

In response to requests for greater course flexibility and variety, the mandatory course for the 2012/2013 licensing cycle is broken into two parts. All industry members must take the three-credit course Client Relationships, which is a half day workshop-based course that involves an in-depth analysis of the everyday situations and relationships industry members, buyers and sellers face.

To complete the rest of the six-credit mandatory requirement, industry members may choose from one of the following courses:

Standard Forms—a workshop-based course that involves taking a critical look at the issues, pitfalls, and common errors that occur with the use of standard forms in a typical residential file. This course is strongly recommended for both those who are new to the industry as well as industry veterans.

Mortgage Fraud/ Grow Ops—a lecture-based course delivered by members of the RCMP.

Legislation and Commercial Practice—a course developed specifically for those who practice in the commercial sector or those interested in the practice of commercial real estate. This course examines provincial and federal legislation as it relates to commercial real estate; it is not a commercial "how to" course.

All industry members must complete one three-credit elective course. The elective may be selected from the remaining mandatory options or any other elective/equivalency listed in the Education Source Book:

<http://www.nsrec.ns.ca/documents/EducationSourceBook.pdf>

# nova scotia real estate COMMISSION

— News Bulletin 166 —



## Commission's sincerest condolences

The Commission Board of Directors and staff would like to express their sincerest condolences to the Jones family on the loss of Arnold Jones, loving husband, father, and grandfather, and retired Executive Officer of the Nova Scotia Association of REALTORS®.

**Jones, Arnold Gray – 68**, Bedford, died August 17, 2012, in the Halifax Infirmary Site of the QEII, Halifax. Born in Scotch Settlement, N.B., he was the son of the late Guy and Mary (Gray) Jones. Arnold grew up in the community of Scotch Settlement. Arnold was a graduate of Keswick Ridge High School, NB, the New Brunswick Teachers' College and the University of Maine where he received a Master's Degree in Education. Arnold's career in education began as Princi-

pal of Hugh Harrison Elementary School in Chatham, NB. After teaching one year in Trail, BC, he returned to NB as principal of Rothesay Elementary School, School Supervisor in Newcastle and Special Education Consultant for the NB Department of Education in Fredericton. In 1980 he moved to NS with his family to assume the role of Superintendent of Atlantic Provinces Special Education Authority (APSEA), where he made fantastic contributions and impact until his first retirement in 1993. Arnold enjoyed a second very successful and gratifying career within the Nova Scotia Association of REALTORS® until his final retirement in 2011. Arnold also found time to volunteer in many community organizations most recently finding fulfillment with his volunteer work with the Canadian Cancer Society's Lodge that Gives. Arnold was blessed with 42 years of marriage to Pat, to whom he supported with loyal devotion during her own battle with cancer. He found love again with his wife Janet, with whom he would have celebrated their first anniversary at the end of this month. Arnold took great joy and pride in his family, with an incredible adoration for his grandson McAulay. Arnold is described as an enthusiastic host, determined in his pursuits, as well as kind, caring and thoughtful in his friendships. His wish was for more time with his family, and shared Pat's regret that they would not be able to dance at their grandson's wedding. Arnold will be missed by his family and by all who knew him. He is survived by his wife Janet Hayward; sons, Patrick, Osaka, Japan; Peter (Heather), Bridgewater; grandson, McAulay Gray Jones; one niece; one nephew; aunts and uncles and Janet's children Craig and Kim. He was predeceased by his first wife Patricia (Patterson) Jones; an infant son, Jeffery, and his parents. Visitation will be held Tuesday, August 21, from 2-4 and 7-9pm in Bedford United Church, where a Celebration of Life Service will be held 2pm Wednesday, August 22. A private family interment will be held in Brookside Cemetery, Bedford. Family flowers only.



In lieu of flowers, donations can be made to the Canadian Cancer Society, or a charity of your choice.

## Scammer alert!

Industry members beware of an email scam being circulated around Nova Scotia. The email is sent from [troyjamesonremax@gmail.com](mailto:troyjamesonremax@gmail.com), and asks you to click on a link to view a listing. When you click on the link, it takes you to this website: <http://remax.futurcreation.com/lgoin/remax/>. The site asks you to enter your email address and password before proceeding. The purpose of the site is to collect your email address and password, after which, the scammers can access your email account and, at a minimum, spam everyone in your contacts list.

If you receive an email that directs you to this website (or any website that asks for your email address and password to proceed), delete the email. For more information about this scam, the real Re/Max franchise posted the following warning on their website: <http://www.remax.com/learningcenter/articleviewer.aspx?id=79>

## Industry members selling and buying property

When an industry member buys or sells real estate, extreme care must be taken to ensure that an industry member's duty is not put into conflict with their interest as a principal in the transaction. Act Section 38 requires the sales representative to disclose their status as a "licensed salesperson" or "licensed broker" as well as their intentions for the property.

The obligation created by Section 38 is that any industry member involved, directly or indirectly, in the acquisition of real estate must make written disclosure regardless of any relationships that exist and regardless of whether the trade is conducted through a brokerage or a private sale.

When disclosing licensed status, the term "licensed REALTOR" is both incorrect and insufficient. Being a REALTOR® means you are a member the Canadian Real Estate Association (CREA) at a national level and the Nova Scotia Association of REALTORS® (NSAR) or the Annapolis Valley Real Estate Board (AVREB) at a provincial level. CREA and its provincial counterparts are a professional membership organization and participation is voluntary. CREA does not grant licenses, and you can be licensed to sell real estate without being a CREA member.

While Act Section 3 (a) exempts property owners from its authority, it is important for all industry members to know that their errors and omissions (E&O) insurance exempts

personal transactions. Any industry member who purchases or sells their own property is not covered under E&O insurance should something go wrong. This applies whether the trade is conducted through a brokerage or a private sale. To avoid the E&O exemption, have another industry member at the brokerage represent the industry member who is buying or selling property.

Under no circumstances can an industry member act as a principal under transaction brokerage. One of the fundamental principles of transaction brokerage is fair and impartial treatment of both parties to the transaction. If a property is owned by an industry member, it is not possible (or believable) for that industry member to ignore their own best interests and act in a purely impartial manner.

The Commission requests that all brokers develop a brokerage policy regarding the purchase and sale of property by industry members at their brokerage. The policy should address:

- disclosures industry members are required to make;
- whether trades must go through the brokerage;
- whether industry members can represent themselves;
- the consequences of not having E&O when industry members represent themselves;
- that transaction brokerage is prohibited; and
- that the Act and Bylaw apply, regardless of whether the trade is conducted privately or through the brokerage

## For-sale signs must be on property for sale

The Commission received two public complaints in the last week about for-sale signs erected on the side of the road, far from the properties for sale. Brokerages are reminded that for-sale signs are only permitted on the actual property for sale or in locations where the brokerage has written permission from the property owner to place signage. A failure to comply with this requirement may result in a fine.

## Your Name Limited

The naming convention for approved sales corporations is First Name + Last Name + Limited or Nickname + Last Name + Limited. This convention must be followed for your application to be processed. If more than one individual will own the sales corporation, the industry member's name used in the corporation name is that of the responsible licence holder only; not both.

## Filling out licensing forms

Recently, a number of industry members have brought termination, renewal, and licence forms to the Commission office



with only the broker signatures completed. The remainder of the forms is blank. This is an unacceptable practice. The purpose of having brokers sign licensing forms is so that they can review and approve the information on the form before signing it. If the form is blank, it is obvious that nothing was reviewed or approved. Brokers, please ensure you review licensing forms and ensure they are complete before signing.

### Multiple offers - updated

The following article was published in Commission News Bulletin 161. It has been updated to reflect a legal opinion the Commission obtained that determined the impartial nature of transaction brokerage requires disclosing a back-up offer to the first buyer. This disclosure requirement only exists in transaction brokerage situations.

If you are the seller's sales representative

- Upon learning of the multiple-offer situation, inform the seller immediately.
- Recommend the seller review every offer prior to making a decision, if circumstances allow.
- It is important to remember that you may disclose the presence of multiple offers if your seller has directed you to do so, however, the content of the offers may not be disclosed.
- If the seller indicated in the Seller Brokerage Agreement to disclose the existence of multiple offers, advise the respective buyers' sales representatives as soon as possible.
- A back-up offer is not considered a competing offer; it is a second accepted offer that only comes into play if the first offer falls. **Because a back-up offer is not a competing offer, the disclosure requirement in Bylaw 702, Article 12 does not apply. The only exception to this rule is transaction brokerage. To remain fair and impartial to all parties, a back-up offer must be disclosed to the first buyer.**

- Advise your seller of options, such as:
  - Accept one offer, reject all others.
  - Counter one offer and set others aside pending the result.
  - Reject all offers. If the seller does not want to sign the rejection, sign your name to the rejection and return it to the buyer's sales representative.
  - Counter or accept more than one offer with the protection of an appropriate seller's condition, which will remove their obligation from the first contract prior to moving on to the next. (I.e. "seller's acceptance of this back-up offer is subject to the seller ceasing to be obligated in any way by \_\_\_\_ date under the previously accepted purchase contract. This condition is for the sole benefit of the seller.")
  - Closed Bidding – ask each buyer to put forth a final sealed offer to bring the negotiation process to a close.
  - Open Bidding – disclose the contents of all offers and any counter offer the seller gives back. Written consent of the buyers' is required.
- NSAR members note, in a multiple offer situation, the MLS® Rules and Regulations require the listing brokerage to disclose any commission reduction to all brokerages with competing offers.

If you are the buyer's sales representative

- If the seller's sales representative disclosed multiple offers, inform the buyer as soon as possible.
- Advise the buyer of the seller's multiple offer options.
- Advise the buyer of his/her options such as:
  - Increase the offer prior to presentation.
  - Leave offer as it is.
  - Withdraw the offer.
  - Reconsider the fixtures, chattels, terms and conditions of the offer.
- Other considerations which could improve the buyer's position may include:
  - A term or condition that will compel the seller to deal with the offer at the time of presentation or face withdrawal
  - A requirement that the seller not disclose the price and terms to any other buyer or face withdrawal

### Using Google public URL removal tool

When a webpage is updated to remove a listing, a cached version of the listing may still appear in Google search results. In situations where the seller no longer wants the property to

appear with the brokerage, for example, when the property is listed with another brokerage, this is less than desirable. When this occurs, you can use Google’s public URL removal tool to request removal of content that was removed from your webpage or someone else’s webpage.

To use the public URL removal tool, you must have a gmail account, which is free, and be logged in. The tool is located here:

<https://www.google.com/webmasters/tools/removals>

Using this tool, you must enter the exact URL of the page that has been modified, select the “Content has been removed from the page” option, and then specify one or more words that have been completely removed from that page. For example, for the listing 246 Sesame Street, enter the word Sesame.

None of the words you enter can appear on the page; even if a word has been removed from one part of the page, your request will be denied if that word still appears on another part of the page. Be sure to choose a word (or words) that no longer appear anywhere on the page.

Once your request has been processed and it’s found that the submitted word(s) no longer appear on the page, the search result will no longer show a snippet, nor will the cached page be available. The title and the URL of the page will still be visible, and the entry may still appear in search results for searches related to the content that has been removed, even if those words no longer appear in the snippet. However, once the page has been re-crawled and re-indexed, the listing will no longer appear.

### Brokerage name prominently displayed

All industry members must display their brokerage name clearly and prominently on every page of their website. They must also include their first and last name. To permit creativity and individuality in Web sites, the Commission does not want to define a mandatory placement for the brokerage name and Industry Member name, however, clearly and prominently means anyone viewing a Web site page should be immediately able to tell who the site belongs to and which brokerage they work for. If the viewer has to scroll down the page or search for the site owner’s name, the rules for firm and representative identification have not been met.



### Credit card authorization form—V-Code

The Credit Card Authorization form on the Commission website was updated to add a space to record the credit card verification code. The verification code (v-code) is a three digit number located on the back of Visa and MasterCard cards and on the front of Amex cards. When completing the form, please include the v-code to ensure we are able to process your application.

# nova scotia real estate COMMISSION

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— News Bulletin 164 —

## Mortgage rules are changing

Finance Minister Jim Flaherty announced changes to CMHC rules yesterday that will cut the maximum amortization period for mortgages to 25 years, down from 30 years. The changes will also limit refinancing loans to 80 per cent of the value of a home, down from 85 per cent. This returns CMHC rules to what they were in 2006.

Flaherty's changes will also cap the maximum gross debt service ratio (GDS) at 39 per cent and the maximum total debt service (TDS) ratio at 44 per cent to qualify for CMHC insurance.

Under the new rules, CMHC insurance will be limited to homes priced under \$1 million, which means buyers who wish to purchase a home priced higher than \$1 million must have a minimum of 20 per cent down.

The changes to CMHC insurance come into effect on July 9th of this year.

## Chair and vice chair election

The Commission Board of Directors held an election for Chairperson and Vice Chairperson at the June 14th meeting. Dennis Richards is the new Chairperson of the Commission and Paul Doucet, who was re-elected, is Vice Chairperson. Congratulations Dennis and Paul.

The Commission would also like to thank David Melvin, who is now Past Chairperson, for his dedication and service as Chairperson over the last year.

## Put your "self" in self regulation

The Commission is looking for volunteers to serve on Licensing, Complaint Review, and Discipline Committees. Serving on one of the Commission committees provides excellent learning and networking opportunities. If you are interested in serving on one of

the committees, send an email to the Registrar at [bchisholm@nsrec.ns.ca](mailto:bchisholm@nsrec.ns.ca) with "Committee Volunteer" in the subject line. In the body of the email, please write a short note explaining why you would like to be a volunteer.

Industry members who wish to volunteer should be aware of both the seriousness of the position and the time commitment involved. As a member of Licensing or Complaint Review, you are required to attend a minimum of four meetings per year as well as additional time spent reviewing committee documents prior to the meetings. In the case of complaint review, the time spent reviewing complaint files is significant. As a member of the discipline committee, you may be called on at any time during the year to serve as a member of a hearing panel, which may require two to five days per hearing and additional time writing the hearing panel decision.

## Don't leave Competition Law to the last minute!

CPE requirements must be met by June 30th, however, the sooner you complete the online Competition Law course the better. The Competition Law course counts as your three credit elective for the 2011/2012 licensing cycle. If you leave it till the 30th, a Saturday, and run into problems completing the course (for example, issues with usernames or passwords), no one at NSAR will be available to provide assistance until Tuesday, July 2nd.

## 30-day license extension

At the June 14th Board of Directors meeting, the Board of Directors approved bylaw amendments to create a 30-day licence extension for industry members who do not complete their continuing education requirements by June 30th. Before the bylaw amendments all industry members were

required to complete one mandatory course and one elective course each licensing cycle as required under Bylaw 323 (a)

*“All industry members must complete the annual CPE requirements prescribed by the Commission for their licence prior to June 30th of each year. Should an industry member fail to complete the requirements, their licence will not be renewed until proof that the requirements have been met is provided to the Registrar.”*

If CPE requirements were not met, the industry member's licence expired June 30th. Under the amended bylaw, an industry member who does not complete their CPE may apply for a 30-day licence extension and pay the extension fee, which will permit them to remain licensed for a period of 30 days, starting July 1st, in which time their CPE credits must be completed. If the industry member does not complete their CPE during the 30 days, their licence is not renewed and they must immediately stop all trading activities until such time as their CPE is complete.

As an unlicensed person, no trading can occur. This means immediately:

- reassigning all brokerage agreements
- ceasing all advertising, including taking down signage and websites
- ceasing to act in any manner that falls under the definition of trading in the Act

- having your name published in an industry publication for failure to complete CPE

Because the unlicensed individual no longer represents the brokerage, the broker must ensure they are no way acting on behalf of the brokerage. Any person who trades without a licence may find themselves subject to severe disciplinary action. Brokers who permit unlicensed trading at their brokerage may also find themselves subject to the same disciplinary action.

Any industry member who wishes to apply for a licence extension must complete the Licence Extension Form and pay the \$1,000 extension fee by June 30th. The form is available here:

<http://goo.gl/tn4Fc>

The updated Bylaw sections, with the changes in bold blue text, are:

### **Continuing Professional Education (CPE)**

#### **323**

- (a) All industry members must complete the annual CPE requirements prescribed by the Commission for their licence prior to June 30th of each year. Should an industry member fail to complete the requirements, their licence will not be renewed until proof that the requirements have been met is provided to the Registrar.

- (b) Upon receipt of an industry member's written application and upon payment of a fee pursuant to Bylaw 402, the Registrar may grant one 30-day extension beginning July 1st for completion of the continuing professional development requirements.**

- (c) A person licensed between July 1st and December 31st must complete three CEUs, or if there is a mandatory course, they must complete the mandatory course.
- (d) A person licensed between January 1st and June 30th is not required to complete any CPE for that licensing cycle.
- (e) Industry members are permitted to carry over a maximum of three CEUs into the next licensing cycle.

#### **330**

The following shall be the approved licensing forms provided by the Commission:

- (a) Application for Licensing as a Brokerage
- (b) Application for Licensing as a Broker / Managing Associate Broker
- (c) Application for Licensing as an Associate Broker
- (d) Application for Licensing as a Salesperson
- (e) Application for Licensing as an Approved Sales Corporation

- (f) Application for Licence Renewal as a Brokerage
- (g) Application for Licence Renewal as a Broker or Associate Broker or Salesperson or Approved Sales Corporation
- (h) Application for one 30-day extension for CPE requirements**
- (i) Licensing Schedule A (to form part of all new applications)
- (j) Licensing Schedule B (to form part of all renewals)
- (k) Reinstatement of Licence
- (l) Notice of Termination
- (m) Exam Application

### **Renewals**

#### **402**

- (a) Brokerage .....\$270
- (b) Broker .....\$270
- (c) Associate broker designated as a manager .....\$270
- (d) Associate broker.....\$270
- (e) Salesperson.....\$270
- (e) Approved sales corporation.....\$80
- (f) 30-day extension for CPE requirements .....\$1000**

Brokers, the updated Bylaw is available for printing here: <http://goo.gl/DyVdw> Please update Part 3 and Part 4 in your Brokerage Manual.

# nova scotia real estate COMMISSION

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— News Bulletin 163 —

## Appointments are mandatory

Any time an industry member enters a property, an appointment must be made with the listing brokerage, or as instructed by the listing brokerage. While it may be tempting, especially when a property is vacant, to save time and enter the property without setting up an appointment, it is prohibited. Entering a property without permission is considered unprofessional conduct under the Act and the Bylaw, and is also trespassing, which is a summary offence under the Protection of Property Act.

## Your licence renewal form

Licence renewal forms are double sided. The first page of the form displays the contact information we have on file for you. If there are no changes to your contact information, do not complete the bottom of page one. If your contact

information has changed, record only the information that changed. For example, if you have a new email address, but the rest of your contact information is the same, just record your new email address and leave the rest of page one blank.

The second page of the form must be completed in full. You must check “yes” or “no” to each of the questions in the Notice of Discipline, Judgments, or Bankruptcy section. If you check “yes” to any of the questions, you must provide the details in the space provided or on a separate piece of paper. Sign page two and have your signature witnessed.

Before submitting your licence renewal form to the Commission, take a moment to ensure it is completed correctly. Incomplete applications cannot be processed and must be returned to the brokerage.

## Get your courses completed

All industry members are required to complete the mandatory course, Keeping It Professional, and one three-credit elective. Brokers ensure that all industry members at your brokerage completed their continuing education requirements or are registered with NSAR to take the required courses. NSAR members can go to [www.realtorlink.ca](http://www.realtorlink.ca) to view course status and register online. Non-members can call NSAR at 468-2515 or (800) 344-2001 to verify course status or to register.

If an industry member does not complete the course requirements, their licence is not renewed on July 1, 2012. This means they cannot trade in real estate until they have completed the necessary courses and renewed their licence. They must also cease all advertising in any medium, including signage and websites.

## CPE Reminder

The last scheduled offering of Keeping It Professional, the mandatory CPE course, is on June 21st at the auditorium at 7 Scarfe Court in Dartmouth.

## Renewal deadline is tomorrow

Brokerages are reminded that the licence renewal forms and fees must be submitted to the Commission by June 15, 2012.

Renewals that are not received or post-marked by June 15th, 2012, are subject to an administrative penalty. All current licenses expire June 30, 2012.

Brokers with questions about renewals can contact Pam Crane, Licensing Officer, by phone: 1-800-390-1015 ext. 304 or email: [pcrane@nsrec.ns.ca](mailto:pcrane@nsrec.ns.ca).

# nova scotia real estate COMMISSION

The Nova Scotia Real Estate Commission is the regulator of the real estate industry, whose goal is to ensure consumer confidence through the administration of the Real Estate Trading Act and the Commission Bylaw



— News Bulletin 162 —

## Amending an Agreement of Purchase and Sale in a hot market

When working with buyers, especially in a hot real estate market, it is important to discuss the ramifications of amending an accepted Agreement of Purchase and Sale (APS). After an offer is accepted, the buyer may wish to amend the APS to address deficiencies identified in a property inspection, water and septic tests, land survey, etc. It is important to inform buyers that the seller has the option of terminating the agreement rather than accepting the amendment. In a hot market, a seller may choose to terminate the agreement in hopes of obtaining a better offer or to bring a more appealing and accepted back-up offer into play.

It is important to note, a back-up offer is **not** considered a competing offer; it

is a **second accepted offer** that only comes into play if the first offer falls. Because a back-up offer is not considered a competing offer, the disclosure requirement in Bylaw 702, Article 12 does not apply. It is the seller's decision to disclose or not disclose the existence of an accepted back up offer and the seller's industry member must comply with the seller's decision.

When writing an amendment to an APS, an industry member may recommend to the buyer striking the seller's option to terminate the agreement. However, doing so does not remove the seller's right to terminate the agreement. The APS contains a number of clauses that permit **either party** to terminate (PCDS, Inspection, Financing, Lawyer Review, Insurance), provided notice is given within the terms of the contract. Striking the termination clauses from the amendment does not alter the

clauses that permit termination in the APS that were accepted by both parties.

## Reporting judgments and lawsuits

Industry members are reminded that Bylaw 334 requires them to immediately inform the Commission of any

- bankruptcy proceedings
- judgments filed against them
- lawsuits in which they are named

While an industry member may be concerned about reporting this information to the Commission, withholding it automatically violates a bylaw.

## CPE Reminder

The last scheduled offering of Keeping It Professional, the mandatory CPE course, is on June 21st at the auditorium at 7 Scarfe Court in Dartmouth.

nova scotia real estate  
COMMISSION

# nova scotia real estate COMMISSION

— News Bulletin 161 —

## Multiple (competing) offer situations: What you need to know and do

With the spring real-estate market heating up, multiple or competing offers are becoming more prevalent. The handling of multiple offers is defined in Bylaw 702, Article 12:

*An industry member shall present all written offers and counter-offers as objectively and quickly as possible. This must be done within the specified time frames or a written extension must be obtained. An industry member shall not withhold or delay the presentation of an offer without the express written consent of the client. When there are multiple offers, an industry member acting on behalf of the seller must disclose to all potential buyers or their agents that there are multiple offers, unless otherwise instructed by the seller in writing, but must not disclose to any other person the specific terms and conditions of other offers.*

If you are representing a seller, whether to disclose a multiple-offer situation to potential buyers is entirely up to the seller. The decision to disclose or withhold the existence of multiple offers from buyers is documented in the Seller Brokerage Agreement, Clause 10: Miscellaneous Provisions, section (f). As the seller's representative, you must ensure you are following their wishes. Should a seller change their mind regarding whether to disclose, the Agreement can be modified by using an amendment. **Note: all offers must be in writing.**

### If you are the seller's industry member

- Upon learning of the multiple-offer situation, inform the seller immediately.
- Recommend the seller review every offer prior to making a decision, if circumstances allow.
- It is important to remember that you may disclose the presence of multiple offers if your seller has directed you to do so, however, the content of the offers may not be disclosed.
- If the seller indicated in the Seller Brokerage Agreement to disclose the existence of multiple offers, advise the respective buyers' industry members as soon as possible.
- A back-up offer is not considered a competing offer, it is a second accepted offer that only comes into play if the first offer falls. Because a back-up offer is not a competing offer, the disclosure requirement in Bylaw 702, Article 12 does not apply.





- Advise your seller of options, such as:
  - Accept one offer, reject all others.
  - Counter one offer and set others aside pending the result.
  - Reject all offers. If the seller does not want to sign the rejection, you can sign your name to the rejection and return it to the buyer's industry member.
  - Counter or accept more than one offer with the protection of an appropriate seller's condition, which will remove their obligation from the first contract prior to moving on to the next. (I.e. seller's acceptance of this back-up offer is subject to the seller ceasing to be obligated in any way by \_\_\_\_ date under the previously accepted purchase contract. This condition is for the sole benefit of the seller.)
  - Closed Bidding – ask each buyer to put forth a final sealed offer to bring the negotiation process to a close.
  - Open Bidding – disclose the contents of all offers and any counter offer the seller gives back. Written consent of the buyers' is required.
- NSAR members note, in a multiple offer situation, the MLS® Rules and Regulations require the listing brokerage to disclose any commission reduction to all brokerages with competing offers.

### If you are the buyer's industry member

- If the seller's industry member disclosed multiple offers, inform the buyer as soon as possible.
- Advise the buyer of the seller's multiple offer options.
- Advise the buyer of his/her options such as:
  - Increase the offer prior to presentation.
  - Leave offer as it is.
  - Withdraw the offer.
  - Reconsider the fixtures, chattels, terms and conditions of the offer.
- Other considerations which could improve the buyer's position may include:
  - A term or condition that will compel the seller to deal with the offer at the time of presentation or face withdrawal
  - A requirement that the seller not disclose the price and terms to any other buyer or face withdrawal

### Escalation clauses do not comply with the Act

The use of escalation clauses in agreements of purchase and sale in multiple-offer situations

has become a hot topic in recent weeks, with the Commission receiving numerous calls from both the industry and the public. An escalation clause is a formula used in place of an actual purchase price, i.e. \$X amount over the highest price offered in competing APSs up to a maximum price.

The Commission asked other Canadian jurisdictions how they handle the escalation clause and the answers varied, ranging from absolutely prohibited to permissible but strongly discouraged. The determining factor in whether escalation clauses were permitted was the jurisdiction's legislation.

The Commission obtained a legal opinion on the use of escalation clauses under the Real Estate Trading Act. The opinion stated that such a clause does violate the requirement of Section 30 (D) of the Act: Every offer to purchase real estate obtained by a licensed person, before execution by either the seller or the buyer, shall clearly show: (d) the price offered; Because escalation clauses violate the requirements of the Act, industry members cannot use them when preparing offers.

### Get your CPE credits completed now!

Industry members may not realize it, but when they don't complete their continuing professional education (CPE) credits, they incur severe disciplinary action, i.e. a licence suspension. Licence suspensions can be extremely costly. Your listings are assigned to another industry member at your brokerage, as are any buyers you have under contract, and you cannot solicit new clients. You must take down all your advertising and cease all trading activities. Additional courses are provided for those who don't obtain their CPE credits within the licensing cycle, but they cost triple what they would normally. The worst-case scenario is for a broker, resulting in the brokerage shutting down.



# nova scotia real estate COMMISSION

— News Bulletin 160 —

## AGM highlights

The Commission AGM was held on Wednesday, March 21st, at the Empire Theatres in Dartmouth Crossing. The Commissioners and staff thank all who attended. Dorothy Williams of Keller Williams Realty was the lucky winner of our draw for a free licence renewal for the 2012-2013 licensing cycle, a \$270 value. Congratulations Dorothy!

The Board of Directors announced that Brad Chisholm, who was Acting Registrar, successfully completed his evaluation period and is now Registrar of the Nova Scotia Real Estate Commission.

Commissioner John MacKay, whose term ends on April 30, 2012, was thanked for his six years of service on our Board of Directors and presented with a wall plaque. John's term ends in April of this year. Public member Avis Chapman, whose term ended in August 2011, was unable to attend the AGM. We thank Avis for her hard work hope to see her soon to present her plaque.

Congratulations to Gordon Burns, who was elected by acclamation at the AGM for a three year term beginning on May 1st. The Commission also congratulates Charlie Pace on his NSAR appointment to the Commission Board of Directors also beginning on May 1st.

## Get your CPE credits completed now!

Industry members may not realize it, but when they don't complete their continuing professional education (CPE) credits, they incur severe disciplinary action, i.e. a licence suspension. Licence suspensions can be extremely costly. Your listings are assigned to another industry member at your brokerage, as are any buyers you have under contract, and you cannot solicit new clients. You must take down all your advertising and cease all trading activities. Additional courses are provided for those who don't obtain their CPE credits within the licensing cycle, but they cost triple what they would normally. The worst-case scenario is for a broker, resulting in the brokerage shutting down.

## Approved Sales Corporation Licence Applications

The Registry of Joint Stock Companies has recently begun to receive inquiries and complaints from industry members who have incorporated a company with our office, only to find that the



name does not satisfy the certain naming rules established by the Commission. Any industry member who wishes to incorporate, must do so under the rules and requirements set out in the Act and Bylaw. These rules are on the first page of the Approved Sales Corporation Licence Application form. If you are still unsure about naming requirements, call the Commission. Applications that do not meet the requirements will be returned unprocessed.

## Employment grievances go to Labour Board

The Commission occasionally receives calls from industry members who are unhappy with the terms of their employment at a particular brokerage. Employer/employee/contractor disputes are not handled by the Commission, they are handled by the Labour Board. The Labour Board administrates the Labour Standards Code and its Regulations, which set the basis for the employment relationship. Both employees and employers have rights and responsibilities under these rules. If either party believes the rules have been broken, a complaint can be filed with the Labour Standards Division.

# nova scotia real estate COMMISSION

— News Bulletin 159 —

## Licence suspensions

The Commission suspended the licences of the following individuals for failure to pay their errors and omissions insurance. These industry members are prohibited from trading in real estate until their errors and omissions insurance is restored.



## Filling out licensing forms

Recently, a number of industry members have brought termination, renewal, and licence forms to the Commission office with only the broker signatures completed. The remainder of the forms is blank. This is an unacceptable practice. The purpose of having brokers sign licensing forms is so that they can review and approve the information on the form before signing it. If the form is blank, it is obvious that nothing was reviewed or approved. Brokers, please ensure you review licensing forms and ensure they are complete before signing.

## Annual General Meeting

The Commission annual general meeting will be held March 21, 2012 at Empire Theatres, 145 Shubie Drive, Dartmouth at 3:00 PM.

## Approved Sales Corporations—Responsible Licence Holder

Bylaw 139A defines Responsible Licence Holder as “the Broker, Managing Associate Broker, Associate Broker or Salesperson designated by an Approved Sales Corporation as being responsible for all acts of the Approved Sales Corporation.” For industry members who form a corporation of one (they are the applicant and the only voting shareholder); they are automatically the Responsible Licence Holder. In cases where

more than one licensed person is a shareholder, for example a husband and wife team, only one person may be designated as the applicant and Responsible Licence Holder. The person designated as the Responsible Licence Holder is responsible for conducting all trades on behalf of the corporation. This means that the Responsible Licence Holder's name appears on all real estate contracts, that is to say, all Seller and Buyer Brokerage Agreements, Agreements of Purchase and Sale, and so on. The other person (the other licensed shareholder) acts as a licensed assistant to the Responsible Licence Holder.

## Paying Approved Sales Corporations

Commissions may only be paid to corporations that have a valid Approved Sales Corporation licence issued by the Commission. The commissions payable to a corporation are those earned from trades conducted by the Responsible Licence Holder. In cases where the Approved Sales Corporation has more than one licensed shareholder, the corporation may only be paid commission for trades conducted by the person designated as the Responsible Licence Holder. If the trade is conducted by a corporation a licensed shareholder that is not the Responsible Licence Holder, the commission is paid to that person, not the corporation.

## PCDS Forms

Industry Members can provide copies of the PCDS forms only with the knowledge and permission of their seller. A PCDS is a form of disclosure meant to protect the understandings all parties have with regard to the condition of the property. Typically, the PCDS is made available to a buyer only after an offer is made on a property. The PCDS is a confidential document and should be treated as such. The PCDS is not to be used as a flyer at open houses or as a promotional tool to solicit buyers.

## What is the difference between an incentive and an inducement?

An incentive is a reward to a buyer or seller for using the services of a particular brokerage. This reward may be anything from a charitable donation to a reduction in commission and is offered to every person who uses the services of that brokerage.

Occasionally, the Commission receives calls from individual salespeople who wish to offer their own incentive program. This is prohibited. The By-Law states that Industry Members may only offer incentives if the incentive is provided by the

brokerage and on behalf of the brokerage with which they are licensed. The reason for that is to ensure the consumer receives the incentive they have been promised. The economics of an individual Industry Member may vary greatly from year to year and even from month to month. An Industry Member's promise of free appliances may be financially attainable at the time the promise was made; however, six months later when the transaction closes, the money to purchase the appliances may no longer be available. By making incentives available at a brokerage-wide level only, the consumer is afforded the stability of a brokerage to ensure they receive whatever has been promised.

An inducement is a reward to a buyer or seller on a specific transaction that results in the completion of the transaction. In an inducement scenario, a buyer and a seller are negotiating a transaction and there is a stumbling block, whether it is a failure to negotiate a sale price, or a failure to meet conditions. In this situation, a brokerage works out a specific arrangement to facilitate the closing of the transaction. For example, a real estate brokerage offers to provide new appliances to a buyer if they proceed with the purchase of a particular property. The key to differentiating incentives and inducements is that an incentive offered by a brokerage and is available to anyone who uses that brokerage's services. An inducement is specific to one transaction and the transaction is already initiated before the inducement is offered.

## No anonymous advertising complaints reminder

Industry members are reminded that the Commission does not accept anonymous advertising complaints. The Commission requires all public complaints to be in writing and the complainant named. It is only fair that industry members are held to the same standards we require for the public we are mandated to protect.



# nova scotia real estate COMMISSION

— News Bulletin 158 —

## Commission welcomes new compliance auditor

The Nova Scotia Real Estate Commission is very pleased to welcome Courtney Clayton to the role of compliance auditor. Courtney started with the Commission on January 9, 2012 and is already proving to be a valuable addition to the compliance team. Courtney holds both a diploma and a bachelor's degree in business administration with a major in accounting, and brings eight years of real estate experience to this position, most recently as a managing associate broker.

## Commissioner election—request for nominations

The annual election for an industry member to serve on the Commission Board of Directors will take place at the Commission Annual General Meeting. The time and location of the meeting will be announced at a later date.

Any industry member who wishes to be placed on the Nomination list must complete the attached form and have it signed by ten industry members.

Nominations must be received by the Commission office no later than Friday, February 17th, 2012, at 4:30 p.m. The election is for one Commissioner position with a three-year term commencing May 1st, 2012. The first person to receive 50 per cent plus one of the ballots cast will be declared elected.

All industry members in good standing are eligible to let their name stand. Those nominated must not have been found guilty of any offence by the Commission or a Board/Association during the past two years for violation of the Code of Conduct or Professional Standards.



Industry members interested in serving should be aware of both the seriousness of this position and the time commitment involved. The industry member elected to the Commission will have to attend five Commission meetings per year and serve on one or more Commission committees.

Please feel free to call the Acting Registrar should you have any questions or need more information before you put your name forward.

## Approved Sales Corporation Bylaw additions

Beginning March 1, 2012, the Commission is accepting applications from Industry Members who wish to form Approved Sales Corporations (incorporate). The following sections were added to the Bylaw to address Approved Sales Corporations:

## **Part One – Definitions**

### **105A**

APPROVED SALES CORPORATION means a body corporate that has been licensed as an Approved Sales Corporation by the Nova Scotia Real Estate Commission.

### **139A**

RESPONSIBLE LICENCE HOLDER means the Broker, Managing Associate Broker, Associate Broker or Salesperson designated by an Approved Sales Corporation as being responsible for all acts of the Approved Sales Corporation.

## **Part Two – Commission Administration**

### **217A**

An Approved Sales Corporation shall not be eligible to vote or be a proxy holder at a meeting of Industry Members.

### **243**

ADD: A notice to an Approved Sales Corporation shall be served upon the Responsible Licence Holder.

## **Part Three – Licensing**

### **Classes of Licenses**

#### **301**

(f) Approved Sales Corporation

#### **306A**

An Approved Sales Corporation is a person that:

- a) meets the requirements of Section 37A of the Act;
- b) is licensed to trade real estate in Nova Scotia by the Commission as an Approved Sales Corporation;
- c) employs or is associated with a Responsible Licence Holder; and
- d) is associated with a licensed Brokerage in Nova Scotia.

### **Approved Sales Corporation**

#### **313A**

A person applying for a licence as an Approved Sales Corporation must:

- a) Be registered with the Registry of Joint Stock Companies with a name acceptable to the Commission;
- b) Provide to the Registrar a written acknowledgement, in such form as may be required by the Registrar, from the Responsible Licence Holder acknowledging that the Responsible Licence Holder has agreed to act in respect of any Trade carried out by the Corporation;

- c) Provide to the Registrar a written acknowledgement, in such form as may be required by the Registrar, from the Brokerage supervising the Responsible Licence Holder acknowledging that the Brokerage shall be responsible for any Trade by the Approved Sales Corporation;
- d) Provide to the Registrar its registered office and all offices where it shall conduct business;
- e) Provide to the Registrar a list of the names and addresses of all legal and beneficial holders of all shares of the Approved Sales Corporation; and
- f) Provide to the Registrar a list of the names and addresses of all officers and directors of the Approved Sales Corporation;

### **Name of Approved Sales Corporation**

#### **313B**

An Approved Sales Corporation shall be registered only with the name of the Responsible Licence Holder, as such name appears on the license held by the Responsible Licence Holder, followed by the word “Limited” or such other name as the Registrar may approve.

### **Restrictions on Trade by Approved Sales Corporation**

#### **313C**

A Trade for an on behalf of an Approved Sales Corporation shall only be conducted:

- a) by the Responsible Licence Holder appointed by the Approved Sales Corporation and approved by the Registrar as the individual responsible for any Trade by the Approved Sales Corporation; and
- b) On behalf of and only in the name of the Brokerage associated with the designated Salesperson for the Approved Sales Corporation in accordance with the Act and Bylaws.

### **Restrictions on Trade by Corporation**

#### **313D**

No corporation may engage in the trading of real estate unless it:

- a) Holds an Approved Sales Corporation licence and the Responsible Licence Holder has a license issued by the Commission in good standing; or
- b) Holds a Brokerage Licence.

### **Advertising**

#### **313E**

An Approved Sales Corporation shall not be identified in any advertising unless the advertising indicates the name of the Brokerage as advertiser and is approved by the Registrar.

**330**

(ea) Application for Licensing as an Approved Sales Corporation

(f) Add: Licence renewal for Approved Sales Corporation

**335**

(a) Add: Approved Sales Corporation

(b) Add: Approved Sales Corporation

**337**

Add: Approved Sales Corporation

**339**

(a) Add: Approved Sales Corporation

**340**

Add: Approved Sales Corporation to the section for Broker

Add: (c) if they cease to act as the Responsible Licence Holder of an Approved Sales Corporation.

Add: An Approved Sales Corporation shall, no later than Five (5) days of the change, notify the Registrar in writing of:

- a) A change of its name;
- b) A change of its phone numbers or registered office;
- c) A change in the Responsible Licence Holder;
- d) A change in its Officers or Directors; and
- e) Any change in issued shares or of the shareholders of the Approved Sales Corporation

**361**

Add: Approved Sales Corporation

**Part Four – Fees**

**401**

(f) Approved sales corporation .....\$80

**402**

(e) Approved sales corporation .....\$80

**Part Six – Trust Accounts and Record Keeping**

**607**

(c) Add: Approved Sales Corporation immediately following Salesperson.

**625**

a) Add: Approved Sales Corporation.

**629**

Add: Approved Sales Corporation

**Part Seven – Conduct & Trade Practices**

**702**

**Article 14**

Add as a second sentence: No Approved Sales Corporation shall trade in real estate except through the services of its Responsible License Holder.

**704**

(c) Add: Approved Sales Corporation.

**705**

(e) Add: Approved Sales Corporation after Salesperson.

**705**

Add: Approved Sales Corporation after Salesperson in the final paragraph at page G-9.

**716**

(c) Add: Approved Sales Corporation after Salesperson.

**716**

(d) Add: Approved Sales Corporation after Salesperson.



## Commissioner nomination form

I, \_\_\_\_\_, licensed as a \_\_\_\_\_ with the \_\_\_\_\_ brokerage in the city/town of \_\_\_\_\_ consent to being nominated for election as a Commissioner of the Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

The industry members signed below nominate the above industry member for election to the Nova Scotia Real Estate Commission (Must be signed by ten current industry members):

<i>Name (please print)</i>	<i>Signature</i>	<i>Brokerage</i>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

**Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission  
Nominations must be received by the Commission no later than 4:30 p.m., February 17th, 2012.**



# nova scotia real estate COMMISSION

— News Bulletin 157 —

## Approved Sales Corporation applications accepted March 1

Beginning March 1, 2012, the Commission is accepting applications from industry members who wish to form Approved Sales Corporations (incorporate). Any industry member who wants to incorporate must do the following:

### 1. Have your business name approved by the Nova Scotia Registry of Joint Stock Companies

*Bylaw 313A, (a) states: A person applying for a licence as an Approved Sales Corporation must: (a) Be registered with the Registry of Joint Stock Companies with a name acceptable to the Commission;*

Your business name (corporation name) must include your first name or a nickname and your last name exactly as registered with the Commission, followed by the word "Limited". You may add an additional word or words to obtain the unique name Joint Stocks requires. For example:

- Jane Smith Limited
- J.A. Smith Limited (nickname)
- Jane Andrea Smith Limited (middle name)
- Jane Smith Real Estate Limited

### 2. Register your sales corporation with the Nova Scotia Registry of Joint Stock Companies

To register your sales corporation, you must file an application for incorporation with the Registry of Joint Stock Companies. Both the Registry of Joint Stock Companies and the Commission strongly advise you obtain legal counsel to assist you in preparing the application.

### 3. Apply for an Approved Sales Corporation Licence

Your application must include:

- a) This application, completed in full with all applicable signatures
- b) A copy of the Memorandum of Association including any amendments
- c) A copy of the Certificate of Incorporation and Certificate of Registration
- d) The \$80.00 approved sales corporation licence fee

Once the application and fees have been received and processed, you will be issued an approved sales corporation licence. You are responsible for renewing your sales corporation with the Registry of Joint Stock Companies and the Commission every year.

Your approved sales corporation licence is granted through your brokerage. Upon termination of your real estate licence, your approved sales corporation licence also terminates. If you terminate from one brokerage and reinstate with another brokerage you must also terminate and reinstate your approved sales corporation licence.

## Updated Bylaw and Approved Sales Corporation Application for available online

The updated Bylaw and Approved Sales Corporation Application will be available on the Commission Web site ([www.nsrec.ns.ca](http://www.nsrec.ns.ca)) later this morning. Access the updated Bylaw under Web site section **Industry Standards > Commission Bylaw**. Access the Approved Sales Corporation Application under Web site section **Licensing > Licensing Forms**.

Brokers, please print a new copy of the Bylaw for your Brokerage Manual. The addition of Approved Sales Corporations resulted in changes in Sections One through Seven.

## Licensing exam date change

As of January 2012, the salesperson licensing class includes four weeks of classroom training. To accommodate for the additional week, all licensing examinations move from the first Friday of the month to the second Friday of the month. Students wishing to write the exam must submit their exam applications before 4:00 p.m. on the first Friday of the month.

# nova scotia real estate COMMISSION

— News Bulletin 156 —

## Seasons greeting from the Commission

The commissioners and staff of the Nova Scotia Real Estate Commission wish everyone a safe and happy holiday and a prosperous new year.

## Commission holiday hours 2010-2011

Please note the Commission's holiday office closures.

**December 23—Closed at noon**

**December 26—Closed**

**December 27—Closed**

**December 30—Closed at noon**

**January 2—Closed**

## Commission Compliance Auditor position

The Commission is hiring a Compliance Auditor.

Reporting to the Compliance Manager, the Compliance Auditor is responsible for executing audits of real estate brokerage trust accounts, record keeping and trading practices. This position acts with a very high level of independence and you may be called upon to assist in regulatory compliance investigations. This is a salaried position with medical/dental benefits, mileage/travel expense reimbursement, and RRSP program.

### Responsibilities:

- Conducts audits, prepares audit reports and communicates audit results.
- Responds to inquiries from industry members
- Prepares all correspondence dealing with audits
- Has full familiarity with provincial legislation and policy and be able to propose draft amendments to clarify audit standards
- Travel is required throughout the province

### Qualifications:

- The successful applicant will have a bachelor degree preferably in business administration or commerce, and a minimum of two to four years of audit experience.
- Strong contract knowledge and experience dealing with contracts
- Strong communications skills, capable of communicating effectively, both verbally and in writing.
- Strong analytical skills, attention to detail and the ability to deal with sensitive issues and confidential information. You must have excellent interpersonal skills.
- Proficiency in MS Office
- A valid driver's licence and a reliable vehicle

Qualified applicants should send their letter of application and resume to the address indicated below by December 16, 2011:

**Compliance Investigator**  
**Nova Scotia Real Estate Commission**  
 7 Scarfe Court, Ste. 200  
 Dartmouth, NS B3B 1W4  
 Fax: 902-468-1016  
 Email: [cmacdonald@nsrec.ns.ca](mailto:cmacdonald@nsrec.ns.ca)

We thank all who apply, however only those under consideration will be contacted directly.

The logo for the Nova Scotia Real Estate Commission features a white silhouette of a house roof above the text "nova scotia real estate" in a lowercase sans-serif font, with "COMMISSION" in a larger, all-caps sans-serif font below it.

## nova scotia real estate COMMISSION

- present and sign any documents dealing with a real estate transaction (that is to say, listings, removal of conditions, and so on)
- solicit a contract to trade in real estate
- make cold calls by telephone or in person to potential clients
- negotiate any terms of a real estate transaction
- discuss or explain listings, offers, contracts, or other similar matters with anyone outside the employ of the brokerage
- advertise directly or indirectly in real estate
- respond to advertising inquiries from the general public

### Can unlicensed assistant earn commissions?

No. Unlicensed people cannot be paid commission.

### Stigmatized properties

Certain events may cause a property to be described as a “stigmatized property.” This term is sometimes applied to a property that has had some circumstance occur in or near it, but which does not specifically affect the appearance or function of the property itself.

Examples of these might include:

- a death occurred in the property
- the property was robbed or vandalized
- there are reports that the property is haunted

The significance of these or any other occurrence will be affected by a person’s values and perceptions, ethnic background, religion, gender, age and other individual concerns. Therefore, to determine with any certainty all the possible occurrences that might cause a property to be considered “stigmatized” is daunting if not impossible. Further, in the event of a lawsuit resulting from an undisclosed stigma, the buyer would have to prove what harmful effect the stigma had because these issues are often personal ones that do not affect the appearance, function or use of the real estate.

In Nova Scotia, the real estate seller and the seller’s representatives are not required by provincial legislation to disclose this type of information about a property. Therefore, when working with a buyer, it is important to ask them if they have any specific concerns regarding stigmas. When informed by the buyer, you can make the appropriate inquiries and sellers and their representatives must respond truthfully. However, keep in mind the current owners may have no knowledge of events that occurred before their ownership or the property may have been rented out and the seller may not know of events that occurred during the rental period. For serious concerns, buyers are advised to make inquiries with the local police.

### What duties are unlicensed assistants permitted and not permitted to perform?

Unlicensed assistants can perform the following duties:

- clerical or administrative activities such as preparation of documents or reports
- make appointments for the industry members to show properties
- set up and remove signs and lock boxes
- write proposed advertising on behalf of an industry member (must still be approved by broker)
- contact agents for results on showings of listings
- contact solicitors about transactions
- respond to agents inquiries
- witness documents already discussed and presented by a industry member

Unlicensed employees cannot perform the following duties:

- host any public open houses
- carry out any pre-closing viewings

# nova scotia real estate COMMISSION

— News Bulletin 155 —

## Observing Remembrance Day

The Commission reminds all Industry Members that no brokerage activities of any kind are permissible on Remembrance Day, including open houses, property showings, opening offices or negotiating transactions. Observance of Remembrance Day in Nova Scotia is defined in the *Remembrance Day Act*, which specifically prohibits trading in real property. The preamble of this act is quoted below.

### *An Act Respecting the Observance of Remembrance Day*

*WHEREAS our heritage of freedom and human dignity has, under Providence, been preserved through the unselfish devotion of those who sacrificed health, limb and life itself in World War One, World War Two and the Korean Conflict;*

*AND WHEREAS the eleventh day of November has traditionally been set aside throughout Nova Scotia as a day to be kept and observed in each and every year under the name "Remembrance Day";*

*AND WHEREAS it is fitting that on Remembrance Day the people of Nova Scotia should pay grateful tribute to the memory of those who have died, cherish those who have suffered grievous injury, and dedicate themselves anew to the maintenance and furtherance of the great ideals hallowed by those sacrifices...*

The Commission office is closed Remembrance Day.

## Suspension of Real Estate Licence



## Why using a professional home inspector is important to buyers and sellers

On occasion, a buyer may wish to use a family member or a friend in place of hiring a qualified property inspector. While it is true that the buyer will save \$300-700 by foregoing a professional inspection, and can save even more if the transaction falls and an additional inspection is needed on a second, or even a third property, is it really in the buyer's best interests to scrimp on the most expensive purchase of their lives? Likewise, is it in the best interest of the seller to permit an uninsured third party in their house to perform acts that carry risk of personal injury, i.e. climbing on ladders, poking at the electrical, climbing on the roof?

When working with a buyer, it is important to point out the risks of not using a qualified and properly insured inspector. If a problem is identified and the buyer wants the seller to remedy it before closing, how does the buyer prove to the seller that the work legitimately needs to be performed? The argument “my uncle says so” may not carry the same weight as “the professional inspector I hired says so”.

Another area of concern is if there are problems with the property after closing. If the buyer ends up suing the seller, how does the buyer demonstrate that the duty of caveat emptor (buyer beware) was properly exercised? On top of having to prove negligence on the part of the seller, the buyer also has to prove that the relative or friend who viewed the property possesses the knowledge and skills to adequately conduct an inspection. Also consider what happens if the friend or family member overlooks a serious patent defect. If an insured property inspector overlooked the defect, the claim may go to errors and omissions insurance. If it’s a family member, the claim is out of their pocket, which may be full or empty.

When working with a seller, it is just as important to discuss property inspections at the time the listing agreement is drawn up. If a buyer has an uninsured person carry out an inspection and they damage or injure themselves or others while carrying out this inspection, the seller’s insurance may have to cover any loss. Likewise, if that person does something that damages the seller’s property, like a ladder falls over and breaks a window, that person isn’t insured to cover property damage that may occur during the inspection.

A seller has the right to limit who inspects their property and this is addressed in a counter offer. The seller may require the buyer to use an inspector they approve; require the buyer

to use an inspector that is member in good standing with CAHPI; or simply require the inspector to provide proof of professional liability insurance.

## Commission Compliance Auditor position

The Commission is hiring a Compliance Auditor on a one-year contract with a possibility of becoming permanent.

Reporting to the Compliance Manager, the Compliance Auditor is responsible for executing audits of real estate brokerage trust accounts, record keeping and trading practices. This position acts with a very high level of independence and you may be called upon to assist in regulatory compliance investigations.

### Responsibilities

- Conducts audits, prepares audit reports and communicates audit results.
- Responds to inquiries from industry members
- Prepares all correspondence dealing with audits
- Has full familiarity with provincial legislation and policy and be able to propose draft amendments to clarify audit standards
- Travel is required throughout the province

### Qualifications

- The successful applicant will have a bachelor degree preferably in business administration or commerce, and a minimum of two to four years of audit experience.
- Strong contract knowledge and experience dealing with contracts
- Strong communications skills, capable of communicating effectively, both verbally and in writing.
- Strong analytical skills, attention to detail and the ability to deal with sensitive issues and confidential information. You must have excellent interpersonal skills.
- Proficiency in MS Office
- Must have a valid driver’s licence and a reliable vehicle

Qualified applicants should send their letter of application and resume to the address indicated below by November 22, 2011:

Compliance Investigator  
Nova Scotia Real Estate Commission  
7 Scarfe Court, Ste. 200  
Dartmouth, NS B3B 1W4  
Fax: 902-468-1016  
Email: cmacdonald@nsrec.ns.ca



# nova scotia real estate COMMISSION

— News Bulletin 154 —

## Escalation clauses do not comply with the Act

The use of escalation clauses in agreements of purchase and sale in multiple-offer situations has become a hot topic in recent weeks, with the Commission receiving numerous calls from both the industry and the public. An escalation clause is a formula used in place of an actual purchase price, i.e. \$X amount over the highest price offered in competing APSs up to a maximum price.

The Commission asked other Canadian jurisdictions how they handle the escalation clause and the answers varied, ranging from absolutely prohibited to permissible but strongly discouraged. The determining factor in whether escalation clauses were permitted was the jurisdiction's legislation. The Commission obtained a legal opinion on the use of escalation clauses under the Real Estate Trading Act.

The opinion stated that such a clause does violate the requirement of Section 30 (D) of the Act: Every offer to purchase real estate obtained by a licensed person, before execution by either the seller or the buyer, shall clearly show: (d) the price offered;

Because escalation clauses violate the requirements of the Act, industry members cannot use them when preparing offers.

## Clarification on multiple offers for NSAR members

As a follow up to the multiple-offer article in the last Commission News Bulletin, NSAR members please note, in a multiple offer situation, the MLS® Rules and Regulations require the listing industry member to disclose any commission reduction to the other parties to the transaction.



## Thinking of switching to designated agency?

Your first step is contacting the Commission in writing. After notification is received, the Commission Compliance Auditor will contact you to set up an audit and a meeting to go over the process of switching from common law to designated agency and the changes that must be made.

## Reporting judgments and lawsuits

Industry members are reminded that Bylaw 334 requires them to immediately inform the Commission of any

- bankruptcy proceedings
- judgments filed against them
- lawsuits in which they are named.

While an industry member may be concerned about reporting this information to the Commission, withholding it automatically violates a bylaw, which will only make things worse in the end.

# nova scotia real estate COMMISSION

— News Bulletin 153 —

## Protect yourself, recommend in threes

In a recent Commission discipline decision, the Complaint Review Committee found an industry member in violation of Bylaw 702, Article 38, which states: *“Industry members shall not recommend the services of one specific service provider only. When making suggestions, Industry Members should provide information on three or more service providers and let the client decide which service provider they use.”*

In this case, the industry member recommended one building inspector and the buyer relied on that recommendation. The Complaint Review Committee fined the industry member \$400.

As real estate professionals, the representations industry members make are relied on by consumers to make decisions. If an industry member recommends only one service provider and the consumer relies on that recommendation, the courts may find the industry member liable for the mistakes of the service provider. Another reason why recommending one building inspector is poor practice is that, if problems occur after the fact, it gives rise to speculation that a building inspector was recommended simply because they would not report problems that could cause the transaction to fall.

While it may be tempting to enter into an agreement with a single service provider to recommend them exclusively, it is in violation of the Bylaw, and more specifically, a Bylaw that was created for the purpose of protecting industry members.



## What duties are unlicensed assistants permitted and not permitted to perform?

Unlicensed assistants can perform the following duties:

- clerical or administrative activities such as preparation of documents or reports
- make appointments for the Industry Members to show properties
- set up and remove signs and lock boxes
- write proposed advertising on behalf of an Industry Member (must still be approved by broker)
- contact agents for results on showings of listings
- contact solicitors about transactions
- respond to agents inquiries
- witness documents already discussed and presented by a Industry Member

Unlicensed employees cannot perform the following duties:

- host public open houses
- carry out pre-closing viewings
- present and sign any documents dealing with a real estate transaction (that is to say, listings, removal of conditions, and so on)
- solicit a contract to trade in real estate
- make cold calls by telephone or in person to potential clients
- negotiate any terms of a real estate transaction
- discuss or explain listings, offers, contracts, or other similar matters with anyone outside the employ of the brokerage
- advertise directly or indirectly in real estate
- respond to advertising inquiries from the general public

## Can unlicensed assistant earn commissions or referral fees?

No. Brokerages can only pay commissions and referral fees to licensed Industry Members.

## Viewings—leave everything as you found it

The Commission was contacted by an outraged homeowner when they returned home after a viewing. The homeowner was angry, and rightly so, about beds being unmade, furniture being moved, the bathroom being used, garbage improperly discarded, and a screen door left wide open. The industry member showing the property also failed to leave behind a business card.

When showing a house, it is important to leave the house just as it was when you entered it. While it is true that the house is being shown because the seller wants it sold, the viewing process is highly invasive. The occupants have to leave, often with children and pets in tow, and kill time while strangers scrutinize every aspect of their home. To return and see beds unmade, doors left open, furniture moved, or other items not as they were adds to that stress.

When showing a house, it is very important to be respectful of the seller and ensure that everything is put back to how you found it before you leave. Selling a house is invariably stressful, but respecting the seller's space is a way to help mitigate anxiety.

## Quick response codes are trendy, but do not meet identification requirements



The Commission has received some advertising samples that have quick response codes (QR codes) instead of broker-

age and representative identification. While industry members are free to use QR codes in their advertising, they must continue to display their full name and brokerage name the old fashioned way: with words and/or pictures.

## You can't act in your client's best interest if you are not there

Commission Bylaw 702, Article 2 states: *"The Industry Member shall protect and promote the interests of their client. This primary obligation does not relieve the Industry Member of the responsibility of dealing fairly with all other parties to the transaction."*

One clear way to protect and promote the interests of your client is to be present when a matter of interest occurs, such as a building inspection or a pre-closing viewing. To that end, in cases before Complaint Review, where the industry member subject to the complaint failed to attend a building inspection or a pre-closing viewing and problems arose because of it, they are charged under this bylaw and their absence is factored into the discipline decision and penalty.

If a buyer's industry member is unable to attend an inspection or a pre-closing viewing, they must obtain the written permission of the seller or seller's industry member to grant the inspector and buyer access the property without the buyer's industry member being present.



# nova scotia real estate COMMISSION

— News Bulletin 152 —

## Fraud alert!

Another deposit-fraud scam has made its way to Nova Scotia. The Commission received a phone call from a salesperson that was contacted via email by an individual claiming to be Shiukmoda Joji from Japan who wanted to buy a large single-family home. A subsequent email from the individual raised the salesperson's suspicions and they looked up "Shiukmoda Joji" on the Internet. Turns out Shiukmoda Joji has attempted deposit-fraud scams all over North America.



In this type of scam the fraudster pretends interest in a property and sends a certified deposit cheque or bank draft to be deposited in the lawyer's trust account. Shortly after, the fraudster backs out of the deal and asks for deposit back, minus whatever legal fees and penalties the lawyer holds back. Of course, the original cheque is phony, and the fraudster is counting on the money being refunded before the cheque bounces.

Shiukmoda Joji could be just about anyone, anywhere in the world so reporting him/her to the authorities is pointless. If you are contacted, just treat it like Nigerian inheritances, online lotteries you never entered, and security updates from banks to which you don't belong and click delete.

## Registrar position update

At the Commission Board of Directors meeting on May 16, 2011, the Board set up a search committee for the recruitment of a new Registrar. The committee issued a request for proposals to five executive-recruitment companies.

All five recruitment companies submitted proposals to the search committee. After reviewing the proposals, the search committee evaluated the significant cost associated with the recruitment process, and the potential candidacy of the Acting Registrar, Brad Chisholm, for the position, and proposed a plan to evaluate Chisholm to take on the role of Registrar in a permanent capacity prior to conducting an outside search. The Board discussed the proposals in detail in the absence of Chisholm and staff. The Board was concerned with the prospect of spending a considerable amount of money engaging a recruiting firm only to have them select Chisholm, a candidate with significant experience and qualifications in the regulation of real-estate trading in Nova Scotia.

The Board approved a process that was proposed by the search committee and agreed to by Chisholm that would see him evaluated by the search committee of the Board, with the assistance of outside human resource professionals, to determine his suitability for this important position while filling the role of Acting Registrar. As Acting Registrar, Chisholm has full authority to carry out all duties and responsibilities of Registrar during this evaluation. A final recommendation of the committee will be made to the Board in January, 2012, with the Board determining if it wishes to retain Chisholm as the Registrar in a permanent capacity. If not, steps would be taken to commence a formal search for an outside candidate, with Chisholm returning to his previous role.

## Lawyer approval clause in client's best interest

The Commission received an email from a broker who noticed a number of Agreement of Purchase and Sale contracts received by the brokerage had the lawyer-approval clause struck. To remind industry members of the importance of the

lawyer-approval clause, the Commission is rerunning the following article from Bulletin 139.

The reasons for striking the lawyer approval clause can vary. The buyer and seller may not feel it is necessary or worry that it may cause the deal to fall. Another possible reason is that an Industry Member has the perception, as property lawyer and Toronto Star columnist Bob Aaron discusses in November 22, 2008 column ([www.aaron.ca/columns/2008-11-22.htm](http://www.aaron.ca/columns/2008-11-22.htm)), that lawyers kill deals.

The primary purpose of a lawyer review of Agreements of Purchase and Sale is to:

- confirm whether or not the purchase contract is a binding agreement and whether there are any errors contained within the agreement;
- confirm that any representations upon which the buyer is relying are in the purchase agreement or in a collateral agreement;
- discuss the subject clauses with the client and confirm the timing of their removal; and
- advise the client as to relevant dates and the importance of observing the strict timetable imposed upon the parties when there is a “time is of the essence” clause in the purchase agreement.

The Commission asked Dartmouth-based lawyer and Commission Chairperson, David Melvin for his thoughts on the matter. Melvin stated that the cost to clients for a lawyer review is nominal compared to what it can cost if the matter ends up in court. The single-most important thing a client can do, he says, is to never sign contracts or enter into any transactions without the benefit of a lawyer review. This helps prevent future problems and keep legal fees low. It is not a question of a lawyer replacing the judgment of the client (or their representative) in making the agreement, but having another professional help make sure the documentation reflects the client’s wishes and protects their interests. Otherwise, once a client has signed a bad agreement or performed another ill-thought-out piece of business, it’s just damage control.

The lawyer review clause exists to protect the parties to the transaction. Industry members need to ensure that buyers and sellers understand the importance of the lawyer review clause when completing Agreements of Purchase and Sale. No Industry member should ever recommend striking the clause from the Agreement, because doing so is not protecting the interests of your client.



## Bylaw updates

The Commission Board of Directors approved two updates to the Commission Bylaw to support the changes to the Act that provide for different remuneration models and the appointment of a Commercial Commissioner. The changes are:

### 209

- a) The Nova Scotia Association of REALTORS® shall appoint three (3) members of the Commission.
- b) The Industry Members shall elect three (3) members of the Commission at the Annual General Meeting.
- c) The Governor in Council shall appoint three (3) members who are not licensed persons.
- d) The Commercial Committee shall recommend a person from the commercial sector to the Board of Directors to sit as a Commissioner. The recommendation must be provided to the Commission Board of Directors in writing no later than January 31st of the year the current appointment expires.

### 715A

- a) Remuneration must be calculated by one of the following methods:
  - i) A percentage of the sale price;
  - ii) A fixed amount;
  - iii) Fees for specific services; or
  - iv) A combination of any calculations in (i), (ii) and (iii).
- b) A consumer must be fully informed of the remuneration they will be required to pay in writing before entering into a contract for brokerage services.

The updated Commission Bylaw is available for viewing and printing here: <http://www.nsrec.ns.ca/media.php?mid=423>. For Brokerage Manuals, replace pages B-1 to B-4, and all of section G (the above changes caused the text to change on subsequent pages).

# nova scotia real estate COMMISSION

— News Bulletin 151 —

## Mere Posting Service Agreement available

A Mere Posting Service Agreement is available for NSAR/AVREB members who offer mere postings in their business models. The new form is, as the title indicates, strictly for mere postings. CREA defines mere postings as: “... a listing on a Member Board’s MLS® System in respect of which the Member has chosen or agreed not to provide services to a Seller other than submitting the listing for posting on a Member Board’s MLS® System.” It is important to note, if you are offering sellers services beyond the CREA definition of mere posting continue to use the Seller Brokerage Agreement/Designated Seller Brokerage Agreement.

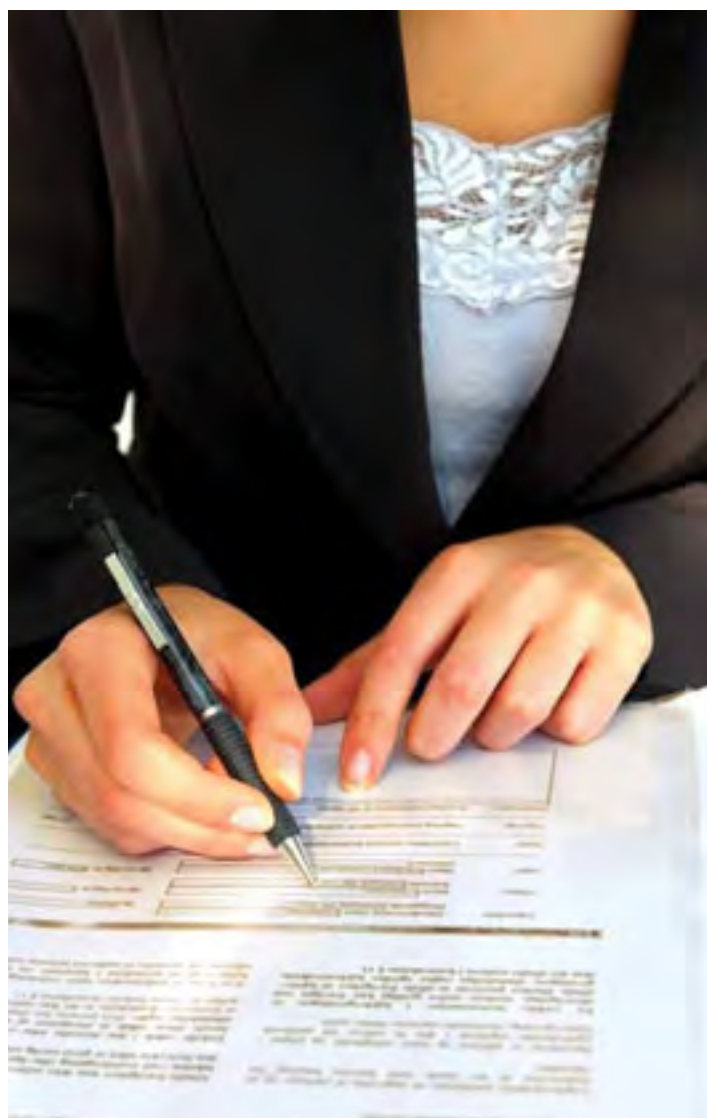
NSAR/AVREB members who wish to use the form can access it on the home page of REALTORLink®, in the top box in the center of the page called “Mere Posting and Competition Info”.

## Seller completes PCDS

Industry members are reminded that the Property Condition Disclosure Statement (PCDS), if applicable, must be completed by the seller. Under no circumstances should an industry member complete a PCDS on behalf of a seller because doing so may make the industry member liable for its contents. The industry member’s only role regarding the completion of the PCDS is to answer questions sellers may have about the content of the form (explain what the questions mean) and to sign as a witness. If the PCDS is completed using Web-Forms™, the seller needs to be given access to the computer so they can type in the information themselves.

## PCDS serves purpose in court

The topic of Property Condition Disclosure Statements is a polarized one in real estate and legal communities. Depending on what you read, it is either the savior of sellers or the blight



of their existence. In a recent case decided by the Nova Scotia Small Claims Court, the PCDS was used to successfully dismiss a claim against two industry member. The suit originally included the seller; however she was later dropped because the PCDS stated there were issues with water quantity.

In *Cholewa v. McAuley*, 2011 NSSM 18, the claimants purchased a home and alleged insufficient water within 24 hours. The claimants argued that the industry members involved in the transaction were responsible for their losses because they, the buyers, were not informed about any problems with the well. In the pleadings they alleged their “REALTOR® did not tell us that in the home we bought [there] is not enough water for four persons.”

Their allegations and suit were dismissed by the adjudicator, who found “The defendants were aware of the fact that there “tends to be a shortage of water during excessive use” as indicated in the Property Condition Disclosure Statement. The claimants’ own agent told the claimant to have the water tested and they did not do so. There is no evidence that the seller’s REALTOR®, the second defendant, was negligent. It was also clear that the claimants’ were told by their good friend at the time they were getting a great deal on the home and even though the neighbors had advised that the home had shortages of water in the past it was worth the gamble.”

### The brokerage is the “agent”

Occasionally the requirement to have the brokerage name on advertising is met with resistance by industry members, who argue that they are independent business people and should be able to advertise under their own names only. While it is true that some industry members, depending on the brokerage, are independent contractors, their employment status is irrelevant to the structure of licensed real estate.

Industry members are licensed as salespeople/ brokers through a brokerage and without a brokerage, they cannot be licensed. When industry members trade in real estate, they are doing so on behalf of their brokerage. This is why industry members are sometimes called “brokerage representatives”. The term “real estate agent” is actually a misnomer: the brokerage, through which all trades are conducted, is actually the agent and industry members act as a conduit for the agent.

When industry members write up brokerage agreements, those agreements are between consumers and the brokerage; if an industry member leaves the brokerage, the agreements remain with the brokerage. All monies held in trust are held by the brokerage and all commissions are paid to the brokerage and the brokerage distributes those commissions to industry members.

In terms of the conduct and trade practices, the industry member is held accountable for their actions, however, the broker is responsible for overseeing the activities of all industry members at the brokerage and bears ultimate responsibility for everything that happens at the brokerage.



### The importance of finance clause deadlines

The financing clause in the Agreement of Purchase and Sale exists to ensure buyers can obtain satisfactory financing within a specified time frame. If buyers are unable to obtain financing under the terms described in the clause, they must notify the seller’s industry member before the date and time specified. The importance of providing notification before the deadline is illustrated in *Whalen v. Murphy*, 2011 NSSM 19.

In *Whalen v. Murphy*, 2011 NSSM 19, the buyers were unable to obtain financing to purchase the property, however this was never relayed to the sellers. One week before the closing date, the buyers’ lawyer contacted the seller’s lawyer stating that the buyers could not obtain financing and would not be able to complete the transaction. The sellers put the property back on the market and their lawyer advised the failed buyers that they breached the terms of the contract would be responsible for any damages the sellers suffered.

The sellers took the failed buyers to court after the house sold and successfully sued for damages.

It is important to note, notice of failed financing means the industry member must give written notice to the seller’s industry member/seller. A letter from the financial institution is not required unless it was specified in the Agreement.

# nova scotia real estate COMMISSION

— News Bulletin 150 —

## Canada Day office closure

The Commission office is closed on Canada Day, July 1. The Commissioners and staff wish everyone a happy and safe Canada Day.



## Fraud alert!

The Commission was recently alerted to a fraudulent cheque scam in the Dartmouth area. The broker reported that one of their industry members received a number of e-mails from Ireland and Africa regarding the purchase a home in HRM. Within two weeks, the brokerage received two cheques made payable to the brokerage with no explanation for their use. When the broker tried to contact the sender, there was no response. The broker contacted both parties from whose account the cheques were drawn, a business and a municipality in Ontario, and was told the cheques were forgeries. The broker then contacted the RCMP and, at this time, they are investigating the matter.

## Your duty to be available

Article 39 of the Conduct and Trade Practices defines the obligations of an Industry Member to their client. As the seller's representative, one of these obligations is to present, in a timely manner, all offers and counter-offers to and from the seller even when the property is already the subject of an Agreement of Purchase and Sale. To perform this duty, the seller's representative must be available to receive all offers and counter-offers so they can be presented in a timely manner.

Industry Members who fail to make themselves available are in violation of the Commission By-Law, for which you can be sanctioned, and in breach of your contract with the client, which can be grounds for the client to terminate the contract.

Industry members who have obligations outside the real estate industry that may keep them from being available to their clients must make their clients aware of these obligations before entering into services agreements.

## Business etiquette: Your business hours are probably not your clients' business hours

The nature of the real estate industry requires its professionals keep irregular hours, including evenings and weekends. It is, as they say, part of the job. However, as illustrated in a recent issue raised with the Commission, it is not part of buyer's and seller's jobs. The issue addressed was a troublesome practice of sending late night texts and emails to schedule viewing appointments for early the next morning. The reason it is troublesome is because for most households, especially ones with children, it is unacceptable to call them late at night.

## Three-credit elective available online

Industry members who have not completed their three-credit elective can take one of two online courses offered by the National Association of Green Agents and Brokers (NAGAB). The NAGAB Web site address is: [www.nagab.org](http://www.nagab.org). To complete an elective, you must join NAGAB and then enroll and complete one of the two following courses:

- Home Energy Efficiency
- Home Hydro Usage

After completing the course, you must submit your certificate of course completion to the NSAR so it can be added to your education records.

# nova scotia real estate COMMISSION

— News Bulletin 149 —

## Canada Post strike and licence renewals

Canada Post filed notice of their intention to strike as early as 1:59 p.m. ET Thursday. Licence renewals will continue as usual regardless of the strike. Brokers may **fax renewals**, including a completed credit-card authorization form (page 2 of this Bulletin), to **1-800-390-1016** or **468-1016**. Renewals may also be **scanned and emailed**, with credit-card authorization, to the Commission Licensing Officer, Pam Crane, at **pcrane@nsrec.ns.ca**. Renewals may also be delivered in person or by courier to the Commission office at 7 Scarfe Court, Suite 200, Dartmouth, NS, B3B 1W4.

Brokerages are reminded that the licence renewal forms and fees must be submitted to the Commission by June 15, 2011. Renewals that are not received or postmarked by June 15th, 2011, are subject to an administrative penalty. All current licenses expire June 30, 2011.

Brokers with questions about renewals can contact Pam Crane, Licensing Officer, by phone: **1-800-390-1015 ext. 304** or email: **pcrane@nsrec.ns.ca**.

## Don't be a late Larry!

Industry members may not realize it as such, but when they don't complete their continuing professional education (CPE) credits, they incur severe disciplinary action, i.e. a licence suspension. Licence suspensions can be extremely costly. Your listings will belong to another industry member at your brokerage, as will any buyers you have under contract, and you cannot solicit new clients. Additional courses are provided for those who don't obtain their CPE credits within the licensing cycle, but they cost triple what they would normally. The worst-case scenario is for a broker, resulting in the brokerage shutting down.

## Changes to the Real Estate Trading Act

The changes to the Nova Scotia Real Estate Trading Act came into effect on May 19, 2011. These changes ensure commercial practitioners have the benefit of a voting commercial representative on the board of directors and give industry members the ability to incorporate and offer flexible commission structures. The changes will also streamline the investigation and discipline processes, which will permit the Commission, as the regulatory body for real estate in Nova Scotia, to better fulfill our mandate of ensuring consumers are protected in their real estate transactions.

The Commission and the Commission Board of Directors are currently working to revise the By-Law to reflect the changes to the Act so industry members and the Commission can utilize the Act changes in day-to-day practice.



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**NOVA SCOTIA REAL ESTATE COMMISSION  
AUTHORIZATION TO BILL CREDIT CARD**

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**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**VISA**

**MASTERCARD**

**Credit Card #** \_\_\_\_\_

**Expiry Date:** \_\_\_\_\_

\_\_\_\_\_  
**SIGNATURE**

**I hereby authorize NSREC to charge licensing fees,  
reinstatement of licence, etc. to the above credit card.**

# nova scotia real estate COMMISSION

— News Bulletin 148 —

## Commission AGM—Location change

The Commission Annual General Meeting is Wednesday, March 30th, at 1:00 p.m. in **Empire Theatres, 145 Shubie Drive, Dartmouth Crossing**. A light luncheon will be served at noon in the Empire Theatres mezzanine.

## Accuracy of information

The Act and the Commission By-law requires brokerages and Industry Members to ensure the accuracy of information provided through them to consumers. This applies to all types of brokerage service agreements whether they are full service, fee for service or mere postings. Consumers expect the information provided by professionals to be accurate. This does not mean the Industry Members themselves have to do the actual measurements or take the photos, etc. They can designate an employee or other person to carry out these functions, provided the service does not include trading activities. If the brokerage or Industry Member has others carry out some of these functions on their behalf, they are still responsible for the information posted. This means the Industry Members must ensure procedures and standards are in place to verify information is accurate.

Further to that, if a complaint is investigated and it is discovered that an Industry Member failed to verify the information, the Industry Member can be charged with violating the Commission By-Law, regardless of the listing type.

## Mere postings—working with a seller

When working with a seller to place a mere posting on the MLS® system, the mere-posting brokerage shall use and retain copies of the following documents in the transaction file:

- Working with a REALTOR® brochure—Seller is a **customer** of the brokerage.
- Seller Brokerage Agreement—Strike and have the seller(s) initial all inapplicable clauses.
- Listing Addendum
- PCDS (optional)

The Property Condition Disclosure Statement (PCDS) is optional, as it is for all Seller Brokerage Agreements and is completed as usual, i.e. the seller provides the information to the best of their ability and the Industry Member acts as solely as a scribe.







## Mere postings—Striking clauses from the Seller Brokerage Agreement

The Seller Brokerage Agreement (SBA) is designed for a brokerage entering into an agency relationship with a seller where the brokerage owes full fiduciary and statutory obligations. In the case of a mere posting, the obligation is only to ensure the listing information is

accurate and to input the property on the MLS® system. The Commission is not imposing a set list of clauses to strike from the agreement, because it is up to a brokerage and a seller to determine the contents of a service contract, however for brokerages that are looking for guidance on modifying the SBA, the Commission puts forth the following suggestions:

### Common law brokerage

- Section 4.1, (a), (b), (c), (d), (g), (i), and (k)
- Section 6.1, (ii)
- Section 6.4, (a)
- Section 13
- Section 14.2

### Designated agency brokerage

- Section 8.1, (a), (b), (c), (d), (g), (i), and (k)
- Section 10.1, (ii)
- Section 10.4, (a)
- Section 17
- Section 18.2

## Mere postings—working with a buyer

When working with a buyer to purchase a mere-posting property, the buyer's brokerage shall use and retain copies of the following documents in the transaction file.

- Working with a REALTOR® brochure—Buyer is a client or customer of the brokerage
- Buyer Brokerage Agreement—Address brokerage compensation in the Brokerage's Remuneration Clause
- Fee Agreement and Seller/Customer Status Acknowledgement—Address brokerage compensation from the seller, if applicable.
- Agreement of Purchase and Sale (APS)
- PCDS—if available

When preparing the APS, complete the Agency Relationships Section as follows:

- Clause (a): The seller DOES NOT have any agency relationship with the brokerage
- Clause (b): The buyer DOES HAVE an agency relationship with the brokerage
- Clause (c): Left blank

If the buyer's brokerage is also the same brokerage that placed the mere posting on MLS® for the seller, the Agency Relationships Section is still completed the same way because the seller is not in an agency relationship with the brokerage.

# nova scotia real estate COMMISSION

— News Bulletin 147 —

## Commission AGM

The Commission Annual General Meeting is Wednesday, March 30th, 2011, at 1:00 p.m. in the auditorium at 7 Scarfe Court, Burnside.

## And the nominees are...

The following individuals are nominees for the 2011 Commissioner election:

### **Nominee: Mike Arthur**

**Brokerage:** Royal LePage Atlantic

**Type of license:** Salesperson

**Years licensed:** 9

**Primary real estate practiced:** Residential and multifamily

**Degrees or designations held:** N/A

**Director or executive committee experience:** Board of Directors, Dartmouth Chamber of Commerce; Board of Directors, Junior Achievement Nova Scotia; Board of Directors, Halifax Progress Club; Partner, Atlantica Learning

**Other experience:** During my years in business, I have always held positions with service clubs and charities. I headed the Monte Carlo's for the Halifax Progress Club, ran fundraisers for the Chamber of Commerce, and introduced a horse racing night fundraiser. I chaired several Chamber of Commerce Committees and was an active volunteer with the Children's Wish Foundation.

### **Nominee: Helen Louise Lindley**

**Brokerage:** Rose Real Estate Limited

**Type of license:** Salesperson

**Years licensed:** 21

**Primary types of real estate practiced:** Residential

**Degrees or designations held:** Secretarial diploma

**Director or executive committee experience:** Current Past President Annapolis Valley Real Estate Board; Past Director NSAR; Chair, Political Action Committee (AVREB) and member of Government Regulation Committee (NSAR). Director, Victory Credit Union; Committee Member, Audit/Risk Management.

**Other experience:** Compliance Officer FINTRAC for Rose

Real Estate Ltd., and Compliance Officer, Privacy Act, Minas Realties.

Campaign Chair, for MLA Chuck Porter and Committee Chair for five re-elections for the Hon. Ron Russell.

Work background: Dept. of National Defense and former Maritime Telegraph and Telephone Company, Limited.

Hobbies: Enjoy Ballroom and Latin American dancing and have Bronze, Silver and Gold Medals.

### **Nominee: Linda Smardon**

**Brokerage:** Exit Realty Citadel

**Type of license:** Broker

**Years licensed:** 19

**Primary real estate practiced:** Residential

**Degrees or designations held:** B.A. with Honours

**Director or executive committee experience:** NSAR: Director; Executive; President; Chair, MLS® Committee; Chair, Finance Committee; Chair, Conduct Review; Professional Standards Committee Member, Standard Forms Committee Member; Sat on various task forces.

**Other experience:** Coached Boys U-15 soccer; sat on Parish Council in Lake Echo; treasurer for Dartmouth Rebels Ladies Soccer Team.

## Commissioner election proxy-voting process

Industry Members who wish to vote in the commissioner election but are unable to attend the meeting can still vote by proxy using the proxy form attached to this bulletin. This form is also provided in the Commission's Annual Report. Proxy voting permits you to appoint another Industry Member to vote on your behalf. Industry Members attending the election may carry a maximum of two proxy votes.

Fax the completed proxy to Commission office before 4:00 p.m. on Tuesday, March 29th, 2011 or present it to the Commission prior to the Annual General Meeting.

You are encouraged to fax your proxy (468-1016 or 1-800-390-1016) to streamline the registration process. If you plan to register in person on the day of the AGM, please arrive early.

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# Nova Scotia Real Estate Commission

## Notice of Annual General Meeting

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Auditorium • 7 Scarfe Court • Burnside • Nova Scotia • 902-468-3511

Wednesday, March 30, 2011  
1:00 - 2:30 PM

### Agenda

Chairman – David Melvin

1. Call to Order
2. Introduction of Head Table—David Melvin
3. Commission Chairman’s Report—David Melvin
4. Finance & Recovery Fund—Paul Doucet
5. Licensing Committee—Donna Anderson
6. Complaint Review Committee—Gordon Burns
7. Discipline Committee—John MacKay
8. Commercial Committee—John Walker
9. Review of the election procedures by the Registrar
10. Address by Nominees (each nominee is permitted to speak for two minutes)
11. Election—first ballot
12. Open Forum—this will be an opportunity for Industry Members to ask questions for the Commission’s comments or to bring forward items for the Commission to consider in their upcoming discussions
13. Presentation—Update on changes to the Real Estate Trading Act and Commission By-Law
14. Results of first ballot and start of second ballot if necessary
15. Further ballots if required
16. Adjournment

# Proxy Commissioner Vote

## Nova Scotia Real Estate Commission

7 Scarfe Court, Dartmouth, N.S., B3B 1W4; p: 468-3511, 800-390-1015; f: 468-1016, 800-390-1016; www.nsrec.ns.ca

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ONLY THE UNDERSIGNED CAN APPOINT HIS/HER VOTING DELEGATES. (Please print)

THE UNDERSIGNED: \_\_\_\_\_

HEREBY APPOINTS: \_\_\_\_\_

OR FAILING HE/SHE: \_\_\_\_\_

AS THE PROXY ON MY BEHALF AT:

The Nova Scotia Real Estate Commission will hold their Annual General Meeting at the Auditorium of 7 Scarfe Court, Burnside, Nova Scotia, on March 30th, 2011 at 1:00 PM.

AND AT ANY ADJOURNMENT THEREOF IN THE SAME MATTER, TO THE SAME

EXTENT AND WITH THE SAME POWER AS IF THE UNDERSIGNED WERE PRESENT

AT THE SAID MEETING OR SUCH ADJOURNMENT THEREOF.

I UNDERSTAND THAT NO VOTING DELEGATE CAN CARRY MORE THAN TWO (2) PROXY VOTES.

DATED THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2011.

---

Signature of Eligible Voting Industry Member

---

Printed Name of Eligible Voting Industry Member

---

Brokerage

NOTE: This proxy form must be presented to the Commission prior to the Annual General Meeting. Present the completed form at the registration desk for the Commission's Annual General Meeting between 12:00 PM and 1:00 PM the day of the election or fax it to the Commission Office before 4:00 PM on March 29th, 2011. You are encouraged to fax your proxy to streamline the registration process.

**Fax number: 468-1016 or 1-800-390-1016**

# nova scotia real estate COMMISSION

— News Bulletin 146 —

## Commission office closure

The Commission Office is closed until noon on Tuesday, February 15, 2011.

## Multiple offer situations: What you need to know and do

A multiple-offer situation can be a blessing or a bane, depending on the transaction and who you are representing. If you are representing a seller, whether to disclose a multiple-offer situation to potential buyers is entirely up to the seller. The decision to disclose or withhold the existence of multiple offers from buyers is documented in the Seller Brokerage Agreement, clause 10: Miscellaneous Provisions, section (f). As the seller's representative, you must ensure you are following their wishes. Should a seller change their mind regarding whether to disclose, the Agreement can be modified by using an amendment. Note: offers must be in writing.

### If you are the seller's Industry Member

- Upon learning of the multiple-offer situation, inform the seller immediately.
- Recommend the seller review every offer prior to making a decision, if circumstances allow.
- Advise the seller of the buyers' options and advise that buyers may, and often do, revoke their offer under competitive pressure.
- It is important to remember the existence of an offer(s),

and associated information is the property and confidential information of the client. This information cannot be disclosed without the client's consent.

- If the seller indicated in the Seller Brokerage Agreement to disclose the existence of multiple offers, advise the respective buyers' Industry Members as soon as possible.
- If possible, have all offers presented in the same time frame. Present all additional offers to the seller up to the closing date or the Seller Brokerage Agreement expires.
- Advise your seller of options, such as:
  - Accept one offer, reject all others.
  - Counter one offer and set others aside pending the result.
  - Reject all offers. If the seller does not want to sign the rejection, you can sign your name to the rejection and return it to the buyer's Industry Member.



- Counter or accept more than one offer with the protection of an appropriate seller’s condition, which will remove their obligation from the first contract prior to moving on to the next. (i.e. Seller’s acceptance of this back-up offer is subject to the seller ceasing to be obligated in any way by \_\_\_\_ date under the previously accepted purchase contract. This condition is for the sole benefit of the seller.”)
- Closed Bidding – ask each buyer to put forth a final sealed offer to bring the negotiation process to a close.
- Open Bidding – disclose the contents of all offers and any counter offer the seller gives back. Written consent of the buyers’ is required.

### If you are the buyer’s Industry Member

- If the seller’s Industry Member disclosed multiple offers, inform the buyer as soon as possible.
- Advise the buyer of the seller’s multiple offer options.
- Advise the buyer of his/her options such as:
  - Increase the offer prior to presentation.
  - Leave offer as it is.
  - Withdraw the offer.
  - Reconsider the fixtures, chattels, terms and conditions of the offer.
- Other considerations which could improve the buyer’s position may include:
  - A term or condition that will compel the seller to deal with the offer at the time of presentation or face withdrawal
  - A requirement that the seller not disclose the price and terms to any other buyer or face withdrawal

### The Annapolis Valley Real Estate Board is the only board

The Nova Scotia Real Estate Commission and the Nova Scotia Association of REALTORS® frequently receive calls for “The Board” and both organizations are sometimes referred to as “The Board”. Problem is, with the exception of the Annapolis Valley Real Estate Board, there is no board.

On March 1, 2000, the NSAR merged all of the MLS® systems within the province with the exception of the Annapolis Valley who elected to retain their own board and MLS® operations. If you are practicing in the Annapolis Valley and are a CREA member, you belong to the Valley Board. If you practice anywhere else in the province and are a CREA member, you belong to the Nova Scotia Association of REAL-

TORS®. Regardless of where you practice in the province, you are licensed and regulated by the Nova Scotia Real Estate Commission.

### Mortgage fraud leads to jail sentence

A Real Estate Council of Ontario (RECO) discipline decision released on January 26th of this year sends a strong message to the Canadian real estate industry about the consequences of engaging in mortgage fraud.

As stated in the RECO media release, Gurpal Singh Bhalla, a former Toronto-based salesperson, was convicted on five charges under the Real Estate and Business Brokers Act, 2002 (REBBA 2002). Three of the charges dealt with the sale of a Toronto home. The remaining charges resulted from false information provided to the Real Estate Council of Ontario (RECO).

RECO began an investigation into Bhalla’s activities following a subsequent sale of the Toronto home. During the first sale, a listing for the home provided by Bhalla described features that did not exist and upgrades that never took place. Following an MLS® posting for the home, priced at \$419,000, a buyer obtained approval for a mortgage and it sold for \$409,000. After a single payment, the property went into arrears and the bank was forced to take possession. A market analysis completed on the home the following year established its value at \$229,000. It sold again, this time for \$235,000. The total loss for the bank was approximately \$225,000.

In addition to having his real estate licence revoked, Bhalla was convicted on five counts under REBBA 2002 and sentenced to three months in jail for each count, for a total 15-month sentence.



## Development permit may be required for home office

If you work from a home office, you may need a development permit according to a recent Nova Scotia Supreme Court ruling. In the case of Halifax (Regional Municipality) v. Mrkonjic, 2010 NSSC 434, the judge found the respondents were in violation of the land use by-law by operating a business out of their R1-zoned home without obtaining a development permit. As stated in the decision, the judge determined that a development permit, typically purchased for renovations, was needed because “‘business use’ occurring within a dwelling located in an R-1 zone constitutes ‘a change or alteration in the use made of the land or structures’ and as such, the business use would constitute a “development” as defined. View the full decision at this link: <http://decisions.courts.ns.ca/nssc/2010/2010nssc434.html>

Aside from the documentation around the court case, there is not a lot of information available about the requirement to obtain development permits for home-based offices. The requirements may also change depending on the municipality in which you reside. If you are in doubt, contact the municipality.

## Commissioner election—request for nominations

The annual election for an Industry Member to serve on the Commission Board of Directors will take place on Wednesday, March 30th, 2011 at 1:00 p.m., in the auditorium at 7 Scarfe Court, Burnside.

Any Industry Member who wishes to be placed on the Nomination list must complete the attached form and have it signed by ten Industry Members.

Nominations must be received by the Commission office no later than February 28th, 2011, at 4:30 p.m.

## Misnomer: Licensed REALTOR®

Industry Members are licensed by the Commission as salesperson, associate brokers, managing associate brokers, and brokers. Industry Members are not licensed REALTORS®. Being a REALTOR® means you are a member the Canadian Real Estate Association (CREA) at a national level and the Nova Scotia Association of REALTORS® (NSAR) or the Annapolis Valley Real Estate Board (AVREB) at a provincial level. CREA and its provincial counterparts are a professional membership organization and participation is voluntary. CREA does not grant licenses, and you can be licensed to sell real estate without being a CREA member.

## Mere postings by out-of-province brokerages update

The Commission sent cease and desist orders to Ontario brokerages that were placing mere postings Nova Scotia properties on the MLS® system. As stated in a previous bulletin, mere postings are considered trading in real estate and a Nova Scotia real estate licence is required. As of today, all out-of-province brokerage listings that we know of are removed. The Commission thanks all Industry Members who reported these listings to us and ask if any new listings appear by out-of-province brokerages that these are reported as well ([pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca)).

## We asked—you said: Leave everything as you found it (business etiquette)



When showing a house, it is important to leave the house just as it was when you entered it. While it is true that the house is being shown because the seller wants it sold, the viewing process is highly invasive. The occupants have to leave, often with children and pets in tow, and kill time while strangers scrutinize every aspect of their home. To return and see all lights blazing, empty Tim Horton's cups on the kitchen table, furniture moved, or other items not as they were adds to that stress.

When showing a house, it is very important to be respectful of the seller and ensure that everything is put back to how you found it before you leave. Selling a house is invariably stressful, but respecting the seller's space is a way to help mitigate anxiety.



# Commissioner nomination form

I, \_\_\_\_\_, licensed as a \_\_\_\_\_ with the \_\_\_\_\_ brokerage in the city/town of \_\_\_\_\_ consent to being nominated for election as a Commissioner of the Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

The Industry Members signed below nominate the above Industry Member for election to the Nova Scotia Real Estate Commission (Must be signed by ten current Industry Members):

<i>Name (please print)</i>	<i>Signature</i>	<i>Brokerage</i>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

**Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission  
Nominations must be received by the Commission no later than 4:30 PM, February 28th, 2011.**



# nova scotia real estate COMMISSION

— News Bulletin 145 —

## Mortgage rules are changing

Federal Finance Minister, Jim Flaherty, recently announced changes to government-backed insured mortgages. The changes are:

- A maximum amortization period of 30 years, down from 35 years for new government-backed insured mortgages with loan-to-value ratios of more than 80 per cent.
- For mortgage refinancing, a maximum amount borrowed of 85 per cent, down from 90 per cent of the home value.
- A withdraw of government insurance backing lines of credit secured by homes, such as home equity lines of credit, or HELOCs.

These changes come into effect on March 18, 2011.

## Deposits are never to be held back

Just days after running a three-part series on handling deposits in the last Commission News Bulletin, a Commission audit revealed a late deposit resulting from a very poor business practice. A buyer's Industry Member held on to their buyer's deposit cheque past the deposit-due date specified in the Agreement and Purchase and Sale. When the seller's Industry Member requested the deposit from the buyer's Industry Member, the buyer's Industry Member refused to hand over the cheque, stating that they were keeping the cheque until after the home inspection.

While at first it may seem like the buyer's Industry Member was protecting the buyer, what the Industry Member was actually doing was breaching the Commission By-Law;



breaching their statutory duty to account; breaching the terms of the APS and placing the transaction at risk; and potentially costing the buyer the price of a home inspection had the seller terminated the transaction.

Industry Members must comply with the terms of the agreements they write and that their clients/customers accept. If the deposit was conditional on a satisfactory building inspection, that condition needed to be included in the offer. That way, the seller would have been at liberty to accept, reject, or counter the offer. However, in this situation, that condition was not written into the offer and the buyer's Industry Member was obligated to deliver the deposit to the listing brokerage as per the terms of the APS.

## Commissioner election—request for nominations

The annual election for an Industry Member to serve on the Commission Board of Directors will take place on Wednesday, March 30th, 2011 at 1:00 p.m., in the auditorium at 7 Scarfe Court, Burnside.

Any Industry Member who wishes to be placed on the Nomination list must complete the attached form and have it signed by ten Industry Members.

Nominations must be received by the Commission office no later than February 28th, 2011, at 4:30 p.m.

The election is for one Commissioner position with a three-year term commencing May 1st, 2011. The first person to receive 50 per cent plus one of the ballots cast will be declared elected.

All Industry Members in good standing are eligible to let their name stand. Those nominated must not have been found guilty of any offence by the Commission, or a Board/Association during the past two years for violation of the Code of Conduct or Professional Standards.

Industry Members interested in serving should be aware of both the seriousness of this position and the time commitment involved. The Industry Member elected to the Commission will have to attend five Commission meetings per year and serve on one or more Commission committees.

Please feel free to call the Registrar should you have any questions or need more information before you put your name forward.

### We asked and you said (another example of good business etiquette)

When a home is viewed, the seller wants to know what people think. Selling a house is a very stressful time and when there are viewings with no feedback, it can cause additional stress—primarily about why their house isn't selling. The reasons a buyer may view a house and not want to purchase it are endless and a lack of feedback can cause endless speculation for a seller. Feedback can ease a seller's mind.

Feedback can also be helpful to the listing Industry Member in terms of getting a property sold. If a price reduction is needed and the seller is on the fence, buyer feedback that the house is overpriced can be helpful persuasion. Likewise, if buyers are turned off because of the smell of cigarette smoke, or dirty carpets, or excessive clutter, that feedback can help persuade a seller to rectify the issue. Another benefit to feedback is that the buyer's Industry Member has viewed other properties and may give comparative feedback which, again, helps with the marketing of the home.

### Form 223 – Assignment of Brokerage Agreement

The Commission posted Form 223 - Assignment of Brokerage Agreement to the Real Estate Forms section of the Web site (<http://www.nsrec.ns.ca/content.php?doc=71>). This form is intended for non-NSAR members to use when assigning a Brokerage Agreement to a different brokerage. The form applies to both Buyer and Seller Brokerage Agreements as well as designated and common law agency brokerages. For NSAR members, the form is available on [www.realtorlink.ca](http://www.realtorlink.ca).

### No parking

The Commission occasionally receives calls from Industry Members who wish to “park” their licenses. You cannot park your licence in Nova Scotia. You must either be licensed to trade in real estate—which involves renewing your licence every year, taking all required continuing education and having E&O insurance—or you may choose to terminate your licence.

If your licence is inactive for less than thirty days, complete the Reinstatement of Licence form and submit it to the Commission with payment. The cost of the reinstatement is \$80.00.

If your licence is inactive over thirty days, complete the Salesperson and Associate Broker Licence Application and Schedule B and submit to the Commission with a copy of your driver's licence and birth certificate and payment. Recovery Fund fees must be included for Industry Members licensed less than five years.

Any continuing professional education credits missed in your absence must be completed within ninety days of your return date. For a list of courses and dates, contact NSAR.

If your licence has been inactive for more than two years, you must complete the licensing course, pass the exam and pay your licensing fees and Recovery Fund fees.





# Commissioner nomination form

I, \_\_\_\_\_, licensed as a \_\_\_\_\_ with the \_\_\_\_\_ brokerage in the city/town of \_\_\_\_\_ consent to being nominated for election as a Commissioner of the Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

The Industry Members signed below nominate the above Industry Member for election to the Nova Scotia Real Estate Commission (Must be signed by ten current Industry Members):

<i>Name (please print)</i>	<i>Signature</i>	<i>Brokerage</i>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

**Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission  
Nominations must be received by the Commission no later than 4:30 PM, February 28th, 2011.**

# nova scotia real estate COMMISSION

— News Bulletin 144 —

## Commission AGM

The Commission Annual General Meeting will be held Wednesday, March 30th, 2010, at 1:00 p.m. in the auditorium at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 p.m.

## Mere Posting FAQ

**If we only post the property on MLS® and provide no other service what is my responsibility as a licensed Industry Member?**

MLS® Pillar 3.05 states the following responsibility: “The listing REALTOR® is responsible and accountable for the accuracy of information submitted to a Board/Association for inclusion in the Board’s MLS® System, and the Board/Association is responsible for ensuring that the data submitted to it meets reasonable standards of quality”.

The Real Estate Commission, By-Law 702, Article 16, states “The Industry Member shall ensure a true presentation in all advertising.” This means you are responsible for ensuring the information in the advertisement (an MLS® listing is an advertisement) is accurate.

**I understand that I am responsible for the content of the listing – to make sure the information is accurate and to verify as much of the information as possible. What other responsibilities fall to the brokerage?**

In the absence of an agency relationship, an Industry Member owes the following obligations to a customer:

- exercise reasonable skill and care
- not negligently provide false or misleading information

- present all offers and counter offers in a timely fashion
- convey all information that the customer wants to have communicated to the client in a timely fashion
- keep the customer informed regarding the progress of the transaction
- hold all monies in trust with respect to the transaction in accordance with the Act and By-Law
- comply with the Act and By-Law
- ensure any person who is considering customer status is fully aware of their option to obtain agency representation

Now obviously some of these obligations will not apply because of the written service agreement you enter into with the seller. For example, a service agreement with a seller for a mere posting would likely to contain the following signed acknowledgements from the seller:

- That you are not responsible to “present all offers and counter offers in a timely fashion”.



- That you are not responsible to “convey all information that the customer wants to have communicated to the client in a timely fashion”.
- That you are not responsible to “keep the customer informed regarding the progress of the transaction”.
- That the brokerage and the seller are not in an agency relationship.
- That the seller is a customer of the brokerage.
- That the seller is aware of the option to obtain agency relationship and chooses not to exercise that option.

From an MLS® perspective, the service agreement could also address your requirements to comply with the MLS® rules for price amendments, change in status (i.e. conditional sale), and to report sold info within the MLS® time limit, all of which require the seller to keep you informed.

**Can the listing brokerage accept property information from the FSBO service? They usually just get the information from the seller online. To post the listing does a licensed brokerage representative have to deal directly with the consumer to gather the information for the mere posting?**

The MLS® Pillar and the Commission By-Law quoted previously, make it a requirement for the Industry Member to gather the listing information themselves because it is only way to ensure the accuracy of the information.



**I was browsing the Halifax Property Guys site and found their MLS® offer. The use of the registered trademark MLS® is obviously an issue for CREA, but I don't think an Ontario broker can list a property in Nova Scotia. Please correct me if I am wrong.**

Any person who wishes to trade in real estate in Nova Scotia can only do so if they are licensed by the Nova Scotia Real Estate Commission. However, even if an Ontario broker were licensed in this province, they would be required to comply with MLS® rules and the Act and By-Law, which would require them to verify the accuracy of the information.

**I saw a couple of mere postings for Nova Scotia properties by out-of-province brokerages. Should I report them, and if so, to whom?**

Please bring mere postings for Nova Scotia properties by out-of-province brokerages to the attention of the Commission's Communications Officer: [pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca). Please provide a link to the listing or reference the MLS® number.

## Deposits part I: Why trust-deposit deadlines are important

The deposit clause is a condition of the agreement. If the deposit is not delivered on or before the deadline specified in the Agreement of Purchase and Sale (APS), this could be sufficient grounds for the seller to terminate the transaction. For a seller looking at a more attractive back-up offer or an offer that was presented after the original APS was accepted, a late deposit may provide a seller with a legitimate reason to terminate the first APS and accept the other offer. As such, Industry Members representing buyers must ensure their buyers are fully aware of the consequences of not submitting deposits on time.

If the listing brokerage does not receive the deposit by the date specified in the APS, they must notify the seller in writing. A copy of the notification must be retained in the brokerage transaction file. If the seller wishes to proceed, the APS needs to be amended to extend the deposit deadline. If the seller decides to terminate, the Industry Member should recommend the seller consult with their lawyer before further steps are taken. The broker can designate any person employed by the brokerage to provide the seller with written notice.

## Deposits part II:

### Trust money needs to be deposited on time

Deposits must be delivered to the brokerage responsible for holding the money in trust, typically the listing brokerage, on the date specified in the agreement. If the deposit is due on acceptance, this means the deposit must be delivered to the listing brokerage on the same day the agreement is accepted.

From the time trust money is received by the brokerage responsible for holding it in trust, the brokerage is to deposit the money in the trust account within 48 hours, excluding weekends and holidays. In addition to trust money, Industry Members are also responsible for providing the brokerage with all transaction documentation in a timely manner.

Proper handling of trust money is a requirement under the Commission By-Law for a reason. Industry Members and their brokerages have a statutory duty to account for all items placed in their keeping, including keys, documents, money, etc. Ensuring trust deposits are received and deposited as per the terms of the APS and the By-Law is an essential part of that obligation.

## Deposits part III:

### Dealing with deposits not received

When a deposit is not received, the seller must be notified in writing as per By-Law 625, b, which states: “In situations where an Agreement of Purchase and Sale calls for a deposit to be held in trust, and the Brokerage does not receive the funds as specified in the agreement, the Broker shall notify the client immediately, in writing, that the funds have not been received.”

To assist brokerages, the Commission has drafted the following letter that Industry Members can print on office stationary and use to notify sellers of late deposits. Please note, use of this letter specifically is not mandatory and brokerages are under no obligation to use it. It is provided solely for the benefit of Industry Members and brokerages who have indicated they wanted to have a standard letter for notifying sellers of late deposits. Brokerages who do not wish to use this letter are still required to provide written notice of late deposits and retain a copy in the brokerage transaction file. This letter is in Microsoft Word format so it can be modified to include mailing addresses and be printed on office stationary. Versions are available for Microsoft Word 97-2003 and 2007. To download a copy, click on the following link and scroll to the bottom of the page:

[www.nsrec.ns.ca/content.php?doc=71](http://www.nsrec.ns.ca/content.php?doc=71)

## Using another Industry Member's listing-cuts

If you want to print another Industry Member's listing-cut sheet from MLS® to give to a potential buyer, you cannot remove the name of the listing brokerage or salesperson from the sheet. The same holds true for Industry Members who advertise properties listed by other Industry Members on their Web sites.

The listing-cut sheets available to the public must always contain the name of the listing brokerage, according to these minimum standards:

- the listing brokerage name must appear on the listing-cut sheet and, for listing-cut sheets on Web pages, it must be visible without having to scroll down the page
- the listing brokerage name must be reproduced as it appears on the sheet from which the listing information was taken
- the listing brokerage name must appear in a font that is the same colour and at least the same size as the rest of the information contained on the detailed description sheet;
- the listing brokerage name must appear when the description sheet is printed out

In addition, an Industry Member authorized by another listing brokerage to advertise properties for sale by the other brokerage must clearly indicate in their ad or on their Web site that it is not their listings.

## Leaving business cards at viewings

The Commission welcomes feedback and tries to accommodate requests for specific topics in Commission News Bulletins. One such request was the practice of leaving a business card when showing a property. While not a regulatory requirement, leaving a business card at a property showing is a courtesy to the seller and the seller's Industry Member and a demonstration of good business etiquette.



# nova scotia real estate COMMISSION

— News Bulletin 143 —

## Seasons greeting from the Commission

The commissioners and staff of the Nova Scotia Real Estate Commission wish everyone a safe and happy holiday and a prosperous new year.

## Commission holiday hours 2010-2011

Please note the Commission's holiday office closures.

**December 24—Closed at noon**

**December 27—Closed**

**December 28—Closed**

**December 31—Closed at noon**

**January 3—Closed**

## Mere postings are trading in real estate

On December 9, 2010, the Nova Scotia Real Estate Commission Board of Directors met to discuss the changes arising from the signed Consent Agreement between the Canadian Real Estate Association and the Competition Bureau. Specifically, the Commission Board of Directors met to discuss CREA's inclusion of mere postings within the Multiple Listing Service® and whether mere postings constitute trading in real estate.

The Board of Directors found that mere postings, do in fact, constitute trading in real estate and the Nova Scotia Real Estate Trading Act and the Commission By-Law apply to brokerages and Industry Members who wish to offer mere posting services.

## Combined years of experience

You cannot advertise combined years experience—the total number of years of experience for a group. Experience can only be indicated for an individual because combined experi-

ence is a meaningless concept. For example, the following three selling teams each have 46 combined years of experience.

- Selling team X is comprised of two salespeople, each licensed for 23 years.
- Selling team Y is comprised of six salespeople, with no person licensed for more than eight years.
- Selling team Z is comprised of three salespeople, one with 45 years experience and two who just received their licences

While each team legitimately can claim 46 years combined experience, the teams are vastly different in terms of size, experience, and skills.



## Notice of termination

Brokers and Industry Members are reminded that the Commission requires notices of termination to be sent to the Commission within 48 hours of the termination. You are also reminded that if you are a member of NSAR, a separate notice must be sent to the Association as well.

# nova scotia real estate COMMISSION

— News Bulletin 142 —

## Observing Remembrance Day

The Commission reminds all Industry Members that no brokerage activities of any kind are permissible on Remembrance Day, including open houses, property showings, opening offices or negotiating transactions. Observance of Remembrance Day in Nova Scotia is defined in the Remembrance Day Act, the preamble of this act is quoted below.



### *An Act Respecting the Observance of Remembrance Day*

*WHEREAS our heritage of freedom and human dignity has, under Providence, been preserved through the unselfish devotion of those who sacrificed health, limb and life itself in World War One, World War Two and the Korean Conflict;*

*AND WHEREAS the eleventh day of November has traditionally been set aside throughout Nova Scotia as a day to be kept and observed in each and every year under the name "Remembrance Day";*

*AND WHEREAS it is fitting that on Remembrance Day the people of Nova Scotia should pay grateful tribute to the memory of those who have died, cherish those who have suffered grievous injury, and dedicate themselves anew to the maintenance and furtherance of the great ideals hallowed by those sacrifices:*

The Commission office will be closed Remembrance Day.

## Statutory duty to account

Industry Members have a statutory obligation to account for and safeguard money, documents, and property entrusted to the Industry Member. The Commission has recently heard rumours of a brokerage failing to account for keys entrusted to them by property owners; specifically that client house keys are being left in an unlocked mailbox in an area accessible to the public so Industry Members can access the keys after hours. When homeowners hand their keys over to an Industry Member, they are doing so with trust on the expectation that their keys, and therefore their homes, will be properly safeguarded. While the Commission has yet to verify or dispel this rumour, if it is true, the brokerage can be charged with a

number of breaches under the Act and By-Law. Worse still, if one of the homes were broken into with a key from that mailbox and property was either stolen or damaged, the brokerage would be liable for all losses and/or damage.

## Signage on utility poles

The following article was originally published in Commission News Bulletin 138, which was sent out on June 30, 2010. Since then, the Commission received another public complaint about for-sale and directional signage appearing where prohibited. The complaint was accompanied by the photograph below.

Industry Members are reminded that any signage must be erected in compliance with municipal regulations. For example, in Halifax Regional Municipality and the Municipality of East Hants, erecting signage on utility poles is prohibited. The rules vary between municipalities, however one common rule across the province is where not prohibited, permission must be sought from Nova Scotia Power to erect the sign and permission must also be obtained from any landowner whose property is crossed to reach the utility pole. For members of the Nova Scotia Association of REALTORS®, the Association rules are clear; no REALTOR® may erect signage on utility poles. Signage is never to be erected on traffic signs.





# nova scotia real estate COMMISSION

— News Bulletin 141 —

## Happy Thanksgiving



The Commission staff and Board of Directors would like to wish everyone a happy and hearty Thanksgiving weekend. Please note the Commission office will be closed Thanksgiving Monday, October 12.



## There is no I in team

The Commission has noted several Industry Web sites in which the content was written from a team perspective, referring to “our services”, “contact us”, and “we offer”, when in fact there is no team, just a single Industry Member. This is misleading advertising. Unless you are part of a team, you cannot author the content of your Web site to appear as a team because doing so may mislead consumers into thinking they are engaging the services of a team. Whether a consumer chooses to engage the services of a team or an individual is entirely a matter of choice, however, there should be no confusion as to who (an individual or a team) is advertising their services on an industry Web site.

## Property Online: not for solicitation

The Commission received a call from a home owner who received unsolicited mail addressed to her and her husband informing them of what houses had sold in their area and promoting the services of a specific brokerage should they wish to list their house. In the letter, her husband was addressed by his first and last name. The complainant stated that her husband goes by his middle name and the only place his first name appears is on the deed to their house. Given that this information is only available on Property Online, the brokerage in question was clearly violating the terms of the Property Online user agreement. The user agreement explicitly states that users are prohibited from using the land related information in Property Online to solicit individuals or organizations. Any user who violates these terms may have their access terminated.

## Buyers taking photographs

The Commission received a complaint from a seller about potential buyers taking photographs during viewings when the seller had specified that no photos were to be taken in the Seller Brokerage Agreement. When a Seller Brokerage Agreement is signed, a seller either consents to buyers taking photos or opts out. To ensure buyers are taking photos only when the consent of the seller has been given, Industry Members need to ask whether the seller has given permission when booking viewings and ensure the seller’s wishes are followed.

## Sold advertising

Industry Members can advertise a property as sold after all the conditions are met, but can only advertise the property (as sold or otherwise) until the property closes or the contract expires.

The reason for this is once the closing occurs or the date in the contract expires, the brokerage no longer has the authority to advertise the property. The seller authorizes the brokerage to advertise the property in the Seller Brokerage Agreement. When the Seller Brokerage Agreement expires, that authority to advertise ends. Likewise, when the closing occurs, the seller no longer owns the house and, therefore, no longer has authority over anything that happens to the property.

Industry Members who wish to advertise a property as sold past this point, must have the buyer's written permission because the buyer is now the property owner and the only one who can authorize it being advertised.

Several Industry Members have pointed out clause 10 in the Agreement of Purchase and Sale as authorization to advertise properties past the closing date, however, the clause states the information can be disclosed for reporting, appraisal, and statistical purposes only.

### Termination and Mutual Release form

The Commission was informed of an improper practice concerning the termination of Agreements of Purchase and Sale where there is no deposit money being held by the listing brokerage. The practice starts with an Agreement of Purchase and Sale with no deposit provision. Later, the transaction collapses and the Industry Members involved fail to terminate the transaction using the Termination and Mutual Release form. The rationale for not completing the Termination form is that there is no deposit money to return. While it is true that the Termination form does address the return or forfeit of deposit money, the overriding purpose of the form is to officially declare the Agreement of Purchase and Sale null and void and release all parties from any further claims and obligations pertaining to the Agreement.

A word of caution for Industry Members about drafting or accepting Agreements of Purchase and Sale without a deposit provision: it isn't necessarily in the best interest of either party to the transaction. The purpose of the deposit is a demonstration of good faith on the part of the buyer to complete the transaction. In a multiple offer scenario, a seller looking at two similar offers will likely give greater consideration to an

offer with a deposit. If you submit an offer without a deposit, the buyer may lose the property to another buyer who does. In the case of a seller, if there is no deposit and the buyer walks away from the transaction outside the terms of the agreement, the seller receives no compensation because there is no deposit to be forfeited and their only recourse is to take the buyer to court.

### Providing opinions of value for purpose of CMAs only

Industry Members are reminded that providing an opinion of value is only performed in the course of doing business as a real estate Industry Member, i.e. as part of a transaction. To provide an opinion of value for any purpose other than a CMA for a potential listing is contrary to the Appraisal Act and requires an appraiser's license.

An appraisal, what accredited appraisers do, is a formal estimate of a property's market value. The appraisal is typically delivered in writing and contains a thorough description of the property, as it appeared on a specific date, and supported by the presentation and analysis of relevant data. Written appraisal reports can range from lengthy documents (a narrative report) or a summary report (a form report).

A comparative market analysis (CMA), what Industry Members do, is not designed to estimate market value, but rather to establish a realistic listing price. This analysis is based on local active listings in the market and sales data to determine the probable sale price of a property in the current market. Sellers can use a CMA to help decide on a fair list price. Buyers can use a CMA to help them decide what to offer on a home they want to buy.



# nova scotia real estate COMMISSION

— News Bulletin 140 —

## Commission condolences

The Commission Board of Directors and staff would like to express their sincerest condolences to the Chaisson family. Eldon Chaisson, a veteran of the real estate industry in Nova Scotia and owner of Re/Max Nova, passed away suddenly this weekend. Eldon served as a Commissioner from 2002-2008 and sat on various Commission Committees over the years. His presence and contribution to the real estate community will be greatly missed. Visitation will be held Tuesday, September 21st from 2-4 and 6-8 PM at J.A. Snow Funeral Home, 339 Lacewood Drive, where funeral service will be held 2 PM Wednesday, September 22nd with Rev. Tom Woods.



## Fraudster alert for HRM

Several brokerages have reported failed transactions as a result of a woman in her late 40s who poses as a buyer looking for a high-end property in Halifax. The woman states that she is buying the property through her company and needs a quick closing. She has gone so far as to obtain a lawyer, measure windows for drapes, and call the utility companies to have the accounts switched over into her business's name. The deposit cheques are written in the amount of \$10,000 from a business account, however, there isn't enough money in the account to cover the deposit and the woman has no financial means to purchase the property.

As reported in a Chronicle Herald article, this woman has a lengthy criminal record, including jail time, for fraud and false pretences dating back to 2002. While the Commission is not aware of anyone being defrauded of money under her current scheme, she has severely inconvenienced sellers and the Industry Members who represent them.

Any Industry Member who has had dealings with this woman is strongly encouraged to contact the Halifax Regional Police and file a report. Any Industry Member who thinks they may be dealing with this woman can contact the Commission or NSAR to verify her identity.

## Follow up to bedrooms advertised must be bedrooms article

The last News Bulletin contained an article that stated bedrooms advertised must be bedrooms in that they comply with building and fire codes. A question was raised as to whether Industry Members should be required to comply with building codes requirements for bedrooms in a city with so many older homes. The answer from a building inspector employed by HRM and a query of [www.canlii.ca](http://www.canlii.ca), the Canadian court decision database, is yes. The building inspector said that building codes, in particular fire codes requiring a window large enough to permit egress or a sprinkler system, are there to keep people safe and can never be ignored.

Even in the absence of tragedy, Industry Members can be held liable for the representations they make. A 2004 Ontario Supreme Court judgment, an Industry Member was sued by his buyer clients for failing to inform them that a bedroom in the basement of the house they contracted to purchase was not a legal bedroom. The buyers tried to terminate the transaction when they discovered that the bedroom in the basement was not legal. The seller sued the buyers for non performance and won. The buyers in turn, sued their Industry Member for negligence, breach of contract and breach of fiduciary duty. In the judgment, the courts ruled that the Industry Member owed both an equitable duty and a legal duty to tell their client of the fact that he believed the basement bedroom might not be in compliance with municipal by-law. The judge awarded the buyers over \$70,000 in damages and \$20,000 in costs.



# nova scotia real estate COMMISSION

— News Bulletin 139 —

## Fraudulent deposit cheque alert!

The Saskatchewan Real Estate Commission and the Real Estate Council of Ontario have both posted warnings on their Web sites alerting the industry about a fraudulent deposit cheque scheme.

The fraudster attempts the scam as follows: After stealing legitimately issued cheques, the fraudster changes the name of the payee on the cheque to the name of the brokerage and the amount of the cheque to the deposit amount they are providing to the brokerage. The deposit amount is usually \$20,000 or higher to make the fraud worthwhile.

The altered cheque is presented to the brokerage in conjunction with an offer to buy a property listed by the brokerage. The offer contains a number of conditions typically all to the benefit of the buyer/fraudster. The buyer/fraudster claims that they are unable to meet one or more of the conditions and ask that a mutual release be signed directing the deposit back to the buyer/fraudster.

The fraud is sometimes not detected until the company who has had their cheque stolen has the opportunity to receive and review their monthly bank statements. In attempting to reconcile their bank accounts, the company discovers the cheque that was stolen and altered to make the payee a real estate brokerage. It is at that point that the broker may receive a call from the company to ask them who provided the cheque to them.

An alternate to this scheme is to use forged certified cheques. In this type of fraud, the buyer/fraudster uses a forged certified cheque to make a deposit on a property. The amount of the cheque is significantly higher than a normal deposit, in some cases up to \$100,000. During the time that the brokerage waits for the cheque to clear the banking system, an individual from the buyer's side makes a reasonable request for repayment of excess funds and the broker complies with the request. The forged cheque bounces and the brokerage ends up with a shortage in the trust account and the transaction collapses.

## Lawyer approval clause in client's best interest

The Commission received a call from a broker who was reviewing purchase and sale agreements and expressed concerns about the lawyer approval clause being struck or left blank in a number of the contracts. The reasons for striking the lawyer approval clause can vary. The buyer and seller may not feel it is necessary or worry that it may cause the deal to fall. Another possible reason is that an Industry Member has the perception, as property lawyer and Toronto Star columnist Bob Aaron discusses in November 22, 2008 column ([www.aaron.ca/columns/2008-11-22.htm](http://www.aaron.ca/columns/2008-11-22.htm)), that lawyers kill deals.



The primary purpose of a lawyer review of Agreements of Purchase and Sale is to:

- confirm whether or not the purchase contract is a binding agreement and whether there are any errors contained within the agreement;
- confirm that any representations upon which the buyer is relying are in the purchase agreement or in a collateral agreement;
- discuss the subject clauses with the client and confirm the timing of their removal; and
- advise the client as to relevant dates and the importance of observing the strict timetable imposed upon the parties when there is a “time is of the essence” clause in the purchase agreement.

The Commission asked Dartmouth-based lawyer and Commission Chairperson, David Melvin for his thoughts on the matter. Melvin stated that the cost to clients for a lawyer review is nominal compared to what it can cost if the matter ends up in court. The single-most important thing a client can do, he says, is to never sign contracts or enter into any transactions without the benefit of a lawyer review. This helps prevent future problems and keep legal fees low. It is not a question of a lawyer replacing the judgment of the client (or their representative) in making the agreement, but having another professional help make sure the documentation reflects the client’s wishes and protects their interests. Otherwise, once a client has signed a bad agreement or performed another ill-thought-out piece of business, it’s just damage control.

The lawyer review clause exists to protect the parties to the transaction. Industry Members need to ensure that buyers and sellers understand the importance of the lawyer review clause when completing Agreements of Purchase and Sale. No Industry Member should ever recommend striking the clause from the Agreement, because doing so is not protecting the interests of your client.

### Condo balconies not included

The Commission was recently asked whether balconies can be included in the total living space for a condominium. The answer is no. Porches, decks, patios, balconies (closed in, screened in, or not) garages, car ports, recreational or cold rooms in basements, and other areas below grade that do not have (at a minimum) crawl space below cannot be included in total living area. One way to describe the square footage of a balcony in a condominium listing is to record the square footage of the condo and to state that it also includes exclusive use of (e.g.) a 100 square-foot balcony.

### Bedrooms advertised must be bedrooms

The Commission received a complaint from a consumer about viewing several properties where the listing cuts falsely



advertised the number of bedrooms. To be considered a bedroom, the space must meet building code standards, which include a door to the outside, or a sprinkler system, or a window large enough to permit egress to the outside. There are additional standards regarding size, ceiling height, natural light and electrical outlets. If there is any debate over whether a room qualifies as a bedroom, contact the municipality in which the property is located and find out.

### Seller completes PCDS

Industry Members are reminded that the Property Condition Disclosure Statement (PCDS), if applicable, must be completed by the seller. Under no circumstances should an Industry Member complete a PCDS on behalf of a seller because doing so may make the Industry Member liable for its contents. The Industry Member’s only role regarding the completion of the PCDS is to answer questions sellers may have about the content of the form and to sign as a witness. If the PCDS is completed using WebForms™, the seller needs to be given access to the computer so they can type in the information themselves.

### Understanding powers of attorney

A power of attorney is an agency agreement where a person is authorized to execute documents under seal on behalf of another party. The power of attorney must be in writing and the authority granted is limited to the terms of the document. Industry Members who have been granted power or attorney, or are working with a consumer who has been granted power of attorney need to ensure power of attorney signatures are executed properly. As an Industry Member signing on behalf of another person, you sign your own name followed by “as power of attorney” or “POA”. When a consumer is signing on behalf of another person, the same process is followed. If two signatures are required, for example, a couple, the person with power of attorney signs their own name (for their signature) and then signs their own name again followed by “as power of attorney” or “POA”. A copy of the power of attorney document is retained in the transaction file.

There is also a general power of attorney, which gives authority to a person to act on behalf of another in all matters and

is typically granted when a person will be unavailable (out of country or in a hospital). A power of attorney can only be granted by a person of sound mind and if a person's mental status changes, the power of attorney is no longer valid. Legislation has changed to permit an enduring power of attorney, which remains valid even if the person becomes mentally incompetent. This enduring power of attorney is used extensively in planning for the care of elderly people. It is important for Industry Members who are dealing with a power of attorney situation regarding the estate of an elderly person, to ensure an enduring power of attorney has been granted so that the appointed individual you are dealing with actually has the authority to sign documents.

## Save et al. for term papers, not agreements

In a recent audit of transaction files, the Compliance Auditor noticed a Seller Brokerage Agreement contained "et al." in the sellers contact information section. Et al. is a Latin abbreviation that means "and others." The Compliance Auditor felt that et al. was vague and that all parties to the agreement should have been listed. To follow up, the Commission obtained a legal opinion about the use of et al. in real estate contracts. The verdict from legal counsel was that et al. was indeed too vague. A more correct term is nominee(s).

## Time's up for Chers and Madonnas

Industry Members have had over a year to incorporate the requirements of the Commission Advertising Guidelines into their signage and advertising campaigns. Unfortunately, there have been a few Industry Members who are still not complying with the requirements for representative identification. Industry Members must advertise their services under their name as it appears on their licence—first name and last name, or under a nick-name registered with the Commission and last name. Having your first and last name in a Web site URL is not sufficient. Advertising Guidelines aside, the Act and the By-Law prohibit advertising under a first name only and similar rules are found in every jurisdiction in Canada. Any Industry Member who continues to advertise under a first name only can expect to receive a fine letter. The fine is \$100 per instance of non-compliance. This means \$100 for every for-sale sign, every Web site, every classified advertisement, etc. Industry Members who see examples of non compliance with this rule are encouraged to report it to the Commission Communications Officer.

## Comparative advertising claims

The Commission has seen an increase in complaints related to advertising involving comparative claims. A claim can showcase your achievements and may be helpful as a marketing tool, but you must be careful that it is accurate, clearly worded and that you have disclosed the source and other details on which the claim is made.

### Must dos

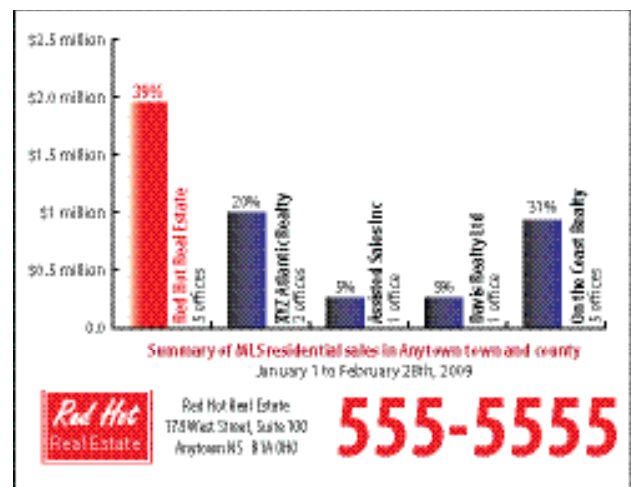
- You must specifically state the information the statistic is referring to (sales volume, closed transactions, number of Industry Members, brokerage or franchise, etc.).
- You must specify the date or the period of time to which the claim applies, for example January 1—June 1, 2010.
- You must state the source or provider of the statistics/information that relates to the claim (i.e. MLS®, real estate board, private research company, etc.)

### Must don'ts

- You cannot unfairly, discredit, disparage or attack other companies, or exaggerate the nature or importance of competitive differences.
- You cannot use statistics based on an extremely small sample size to support a claim (i.e. citing the one day out of the year where a brokerage employed more salespeople than any other, or a two- or three-day period of total sales), which if a more reasonable sample size were used, the claim would be false.

The bottom line is: don't make any claims that you can't substantiate. To avoid an unprofessional industry image, any advertisement that makes a comparison to a competitor should be clear, truthful and in good taste.

The advertisement below clearly indicates what is being compared and the consumer can appreciate the performances illustrated. The ad indicates that sales volumes are being compared, expressed as dollars and as percentages and illustrated using a graph. This graph is proportionate to the sales volume. The ad specifies the period covered by the comparison and the territory concerned.



# nova scotia real estate COMMISSION

— News Bulletin 138 —

## True copies of real estate agreements

All Industry Members are required, under the Real Estate Trading Act, to deliver a true copy of the agreement to each party to the agreement. But what is a true copy? The legal definition of true copy is “an exact copy of a written instrument.” In the case of real estate, a true copy is an exact copy of an agreement. A copy of the agreement (Brokerage Agreement or Agreement of Purchase and Sale) must be left with the client/customer at the time of signing. If the contract is amended, the client/customer must receive a copy of the amendment.

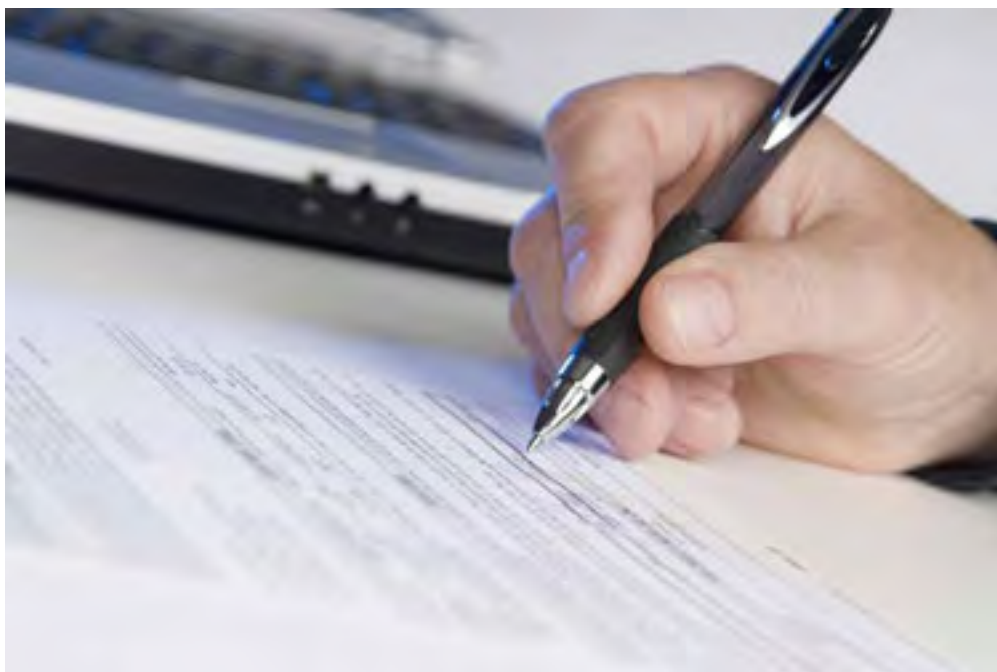
In the days before WebForms™, presenting a true copy of an agreement to all parties to the transaction was simple because the forms were produced in triplicate and completed by hand. With the introduction of WebForms™, Industry Members are now able to type in the information and then print copies off. While simpler and neater than the hand written method, Industry Members may run the risk of not providing true copies to all parties to the transaction (for example, initials missing, witness signature missing, and so on)

because some information may be typed in on a computer and some information completed by hand. Consider the following case out of Toronto.

An Industry Member was dealing with a sophisticated client on a commercial transaction. When the Industry Member met with the client to sign a listing agreement, the holdover clause was left blank because the client wanted to consult with his lawyer before committing to the clause. The following day, the Industry Member testified that they had consulted with their client and agreed on a 160 day holdover clause. The Industry Member recorded this on their copy of the agreement how-

ever, the client did not. The client later filed a complaint with the Real Estate Council of Ontario (RECO).

The RECO investigator found that the client and the Industry Member did not have identical copies, and as a result, the Industry Member was charged with breaching the Real Estate and Business Brokers Act. During the discipline process, the client proved to be a less than credible witness and the Industry Member, once facing numerous charges and the possibility of a \$12,500 fine, was found to have performed their duties satisfactorily with the exception of the true-copy requirement. As a penalty, the Industry Member was required to attend a property-law course within a six-month timeframe. While it may seem that the Industry Member got off easy by avoiding a large fine, they still had to endure the stress of the investigation and the hearing as well as have their name published in a discipline decision. All of this could have been avoided if the Industry Member had just delivered a copy of the agreement to the client the day the holdover clause was modified.



## There is no “normal” commission rate

An Industry Member contacted the Commission with concerns they had regarding conversations with several different consumers. The consumers stated that they were told by other Industry Members that five per cent was the “normal” commission rate for the area. Because commissions are determined by the broker, there is no such thing as a “normal” commission and Industry Members should never refer to a “normal” commission rate. The only rate that should be referred to is the rate specified by their broker.



The Commission has also heard rumours of several Industry Members receiving criticism from other Industry Members for offering discounted or rebated commissions, particularly where the cooperating commission was reduced. The Commission reminds all Industry Members that price fixing (horizontal-price maintenance) is an indictable offence under the Competition Act. Price fixing is the result of an unlawful agreement between manufacturers or dealers to set and maintain specified prices on typically competing products. In the case of real estate brokerage, price fixing means refusing to cooperate with other Industry Members based on the commissions charged. The penalty for price fixing is a fine or imprisonment not exceeding five years or both.

Industry Members who refuse to cooperate with discount brokerages are engaging in activities that could get them into serious legal and financial trouble. In 1994, after two lengthy trials, two real estate companies, and two senior officials of one of those companies, were convicted for price maintenance activities directed at two discount realty firms in Calgary. One franchise brokerage was fined \$200,000. The franchise broker received a \$25,000 fine and a managing broker received a \$5,000 fine. The other brokerage was found guilty of discriminating against one discount brokerage and received a \$25,000 fine. The appeal court decision, which the Industry Members lost, can be viewed at the following link: <http://www.canlii.org/en/ab/abqb/doc/1993/1993canlii7148/1993canlii7148.html>

## Mass mailing requirements

Industry Members who wish to send mass e-mails may do so as long as they do so with full compliance to the Personal Information Protection and Electronic Documents Act (PIPEDA). Industry Canada provides best practices guidelines for online marketing. These guidelines are summarized below.

- Marketing e-mail should only be sent to recipients who have provided their consent to receive such information.

- In all marketing e-mail, recipients must be provided with an obvious, clear and efficient e-mail or Web-based means to opt out of receiving any further business and/or marketing e-mail messages from the organization.
- The internal process used to obtain consent should be clear and transparent. Organizations should keep records of the type of consent obtained from recipients so that e-mail lists can be scrubbed prior to campaign broadcasts.
- Every e-mail marketing communication should clearly identify the sender of the e-mail. The subject line and body text in the communication should accurately reflect the content, origin and purpose of the communication.
- Every e-mail should provide a link to the sender’s privacy policy. The privacy policy should explain the intended use and disclosure of any personal information that might be gathered through “clickstream” means or other Web site monitoring techniques.
- Marketers, list brokers and list owners should take reasonable steps to ensure that the addresses on their e-mail lists were obtained with the proper consent.
- Organizations should have in place a complaint-handling system that is fair, effective, confidential and easy to use.
- The recipients must be blind copied so that e-mail addresses cannot be harvested by other recipients. If a blind copy field is not evident in your e-mail program, consult the help files. Almost all e-mail programs, including hotmail and gmail, include this feature.

## No signage on utility poles

The Commission received another public complaint about for-sale and directional signage stapled to utility poles. Industry Members are reminded that any signage must be erected in compliance with municipal regulations. For example, in Halifax Regional Municipality and the Municipality of East Hants, erecting signage on utility poles is prohibited. The rules vary between municipalities, however one common rule across the province is where not prohibited, permission must be sought from Nova Scotia Power to erect the sign and permission must also be obtained from any landowner whose property is crossed to reach the utility pole. For members of the Nova Scotia Association of REALTORS®, the Association rules are clear; no REALTOR® may erect signage on utility poles.





# nova scotia real estate COMMISSION

— News Bulletin 137 —

## Mark cash or cheque on deposit clause

The Commission was recently asked to help clarify an issue two brokerages were having with a cash deposit. The buyer's brokerage received a cash deposit and the listing brokerage refused to take it because the brokerage has a no-cash-deposit policy. On the Agreement of Purchase and Sale deposit clause, the cash/cheque section was not marked. A listing brokerage that has a no-cash-deposit policy should make that clear on every listing cut. A buyer's Industry Member should always make sure the deposit clause identifies the means of deposit, i.e. cash or cheque. If the buyer's Industry Member had done so, the matter either would have been noticed and dealt with at the time the agreement was signed or if it wasn't noticed, the listing brokerage would have had to take the cash deposit because it would have been agreed to by the signing of the agreement.

## Don't be a late Larry!

Industry Members may not realize it as such, but when they don't complete their continuing professional education (CPE) credits, they incur severe disciplinary action, i.e. a license suspension. License suspensions can be extremely costly. Your listings will belong to another Industry Member at your brokerage, as will any buyers you have under contract, and you cannot solicit new clients. Additional courses are provided for those who don't obtain their CPE credits within the licensing cycle, but they cost triple what they would normally. The worst-case scenario is for a broker, resulting in the brokerage shutting down. CPE credits take a maximum of three days to complete, is you want to get to do what you want to do for those three days worth the consequences?



## No parking

The Commission occasionally receives calls from Industry Members who wish to "park" their licenses. You cannot park your licence in Nova Scotia. You must either be licensed to trade in real estate—which involves renewing your licence every year, taking all required continuing education and having E&O insurance—or you may choose to terminate your licence.



If your licence is inactive for less than thirty days, complete the Reinstatement of Licence form and submit it to the Commission with payment. The cost of the reinstatement is \$80.00.

If your licence is inactive over thirty days, complete the Salesperson and Associate Broker Licence Application and Schedule B and submit to the Commission with a copy of your driver's license and birth certificate and payment. Recovery Fund fees must be included for Industry Members licensed less than five years.

Any continuing professional education credits missed in your absence must be completed within ninety days of your return date. For a list of courses and dates, contact NSAR.

If your licence has been inactive for more than two years, you must complete the licensing course, pass the exam and pay your licensing fees and Recovery Fund fees.

## Relocation companies must have power of attorney

Industry Members working with relocation companies are reminded to keep a copy of the power of attorney in the transaction file. Without a signed power of attorney, a relocation company does not have the authority to sign for their client.

## Renewal deadline

Brokerages are reminded that the license renewal forms and fees must be submitted to the Commission by June 15, 2010. Renewals that are not received or postmarked by June 15th, 2010, will be subject to an administrative penalty. All current licenses expire June 30, 2010.



## Renewal applications

Brokers are reminded that all renewals for their brokerage should come from the broker as a package, not be sent in individually. When the forms are filled out, please ensure they have been completed properly. There are two sides to the form. The first side of the form is completed only if an Industry Member's contact information changed in the past year. Do not complete the first side if the Industry Member's contact information did not change. All Industry Members are required to complete the second page in full. Applicant signatures must be properly witnessed.

## Notice of termination

Brokers and Industry Members are reminded that the Commission requires notices of termination to be sent to the Commission within 48 hours of the termination. You are also reminded that if you are a member of NSAR, a separate notice must be sent to the Association as well.

## PCDS Forms

Industry Members can provide copies of the PCDS forms only with the knowledge and permission of their seller. A PCDS is a form of disclosure meant to protect the understandings all parties have with regard to the condition of the property. Typically, the PCDS is made available to a buyer only after an offer is made on a property. The PCDS is a confidential document and should be treated as such. The PCDS is not to be used as a flyer at open houses or as a promotional tool to solicit buyers.

## Volunteers wanted

The Commission reviews its committees each year around the end of May. The Commission Chairperson, who is elected by the Commissioners at the May Board of Director's meeting each year, appoints the committee chairs. The committees membership is then revisited. Any Industry Members that have an interest in serving on one of the standing committees should fax a note to the Commission putting their name forward for consideration. The Commission fax number is 902-468-1016 or 800-390-1016. The main committees are Licensing, Complaint Review and Discipline. If you are inter-

ested, please let the Commission know no later than Monday, June 7th.

## Employment insurance benefits for the self-employed

Beginning in January 2011, self-employed Canadians can access employment insurance (EI) special benefits. There are four types of EI special benefits:

- maternity benefits that extend to a maximum of 15 weeks
- parental benefits that extend to a maximum of 35 weeks
- sickness benefits that extend to a maximum of 15 weeks
- compassionate care benefits that extend to a maximum of six weeks

You may be eligible to access EI special benefits beginning in January 2011 if all of the following applies:

- self-employed
- Canadian citizen or a permanent resident of Canada
- entered into an agreement with the Canada Employment Insurance Commission (CEIC) through Service Canada.

As a self-employed person, you can enter into an agreement with the CIEC through Service Canada ([www.servicecanada.gc.ca](http://www.servicecanada.gc.ca)) starting on January 31, 2010.

By entering into this agreement, you confirm your interest in participating in this measure and in paying EI premiums on your self-employment income.

For more information about EI for self-employed people, see [www.servicecanada.gc.ca/eng/sc/ei/self\\_employed\\_workers.shtml](http://www.servicecanada.gc.ca/eng/sc/ei/self_employed_workers.shtml).



# nova scotia real estate COMMISSION

— News Bulletin 136 —

## And the nominees are...



The following individuals are nominees for the 2010 Commissioner election:

- Crystal Yeo, Associate Broker, Exit Realty Optimum
- John Linders, Salesperson, RE/MAX Nova
- Paul Doucet, Broker, Prudential Property Specialists
- Wendy Spencer, Broker, Exit Realty Metro

It is important that all Industry Members attend or submit their vote by proxy so that your voices are heard.

## Commissioner election proxy-voting process

Industry Members who wish to vote in the commissioner election but are unable to attend the meeting can still vote by proxy using the proxy form provided in the Commission's Annual Report. Proxy voting permits you to appoint another Industry Member to vote on your behalf. Industry Members attending the election may carry a maximum of two proxy votes.

The completed proxy form must be faxed to the Commission office before 4:00 p.m. on Tuesday, March 16<sup>th</sup>, 2010 or presented to the Commission prior to the Annual General Meeting. You are encouraged to fax your proxy (468-1016 or 1-800-390-1016) to streamline the registration process.

## Commission Annual General Meeting

The Commission Annual General Meeting will be held on March 17<sup>th</sup>, 2010, at 1:00 p.m. in the auditorium at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 p.m.

## Continuing professional-education courses

All Industry Members are reminded that annual CPE requirements must be met by June 30<sup>th</sup>, 2009. The consequence of not completing your courses is that your licence will not be renewed July 1<sup>st</sup> and you will not be able to trade in real estate. You will also be required to stop all advertising, remove For-Sale signs and shut down Web sites. With a little over four months left, the Commission strongly recommends that you do not leave this to the last minute. Take the time to get your courses in the winter while business is reasonably quiet. Don't wait until May-June when you are very busy.

## RETA and By-Laws apply to blog content

Web sites that permit users to create their own personal blog hosted on a large central site, free of charge (Blogger, WordPress, and so on) as well as blog sites of other organizations, have become increasingly popular in recent years, and many Industry Members are taking advantage of the marketing opportunity they present. Other Industry Members have created blog sections on their Web sites. These Industry Members use their blogs to promote their business, give updates on their industry and the market.

Blogging is a perfectly permissible form of advertising for Industry Members, however, any Industry Member who wishes to blog, must follow the rules of advertising set out in the *Act*, the *By-Law*, and the *Commission Advertising Guidelines* publication.

The *Commission Advertising Guidelines* can be viewed online at the following link: <http://www.nsrec.ns.ca/content.php?doc=75>.

# nova scotia real estate COMMISSION

— News Bulletin 135 —

## Commission Annual General Meeting

The Commission Annual General Meeting will be held Wednesday, March 17<sup>th</sup>, 2010, at 1:00 p.m. in the auditorium at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 p.m.

## Commissioner election—request for nominations deadline approaching fast



The annual election for an Industry Member to serve on the Commission Board of Directors will take place on Wednesday, March 17<sup>th</sup>, 2010, at 1:00 p.m., in the auditorium at 7 Scarfe Court, Burnside.

Any Industry Member who wishes to be placed on the Nomination list must complete the attached form and have it signed by ten Industry Members.

Nominations must be received by the Commission office no later than Wednesday, February 17<sup>th</sup>, 2010, at 4:30 p.m.

## Commissioner election proxy-voting process

Industry Members who wish to vote in the commissioner election but are unable to attend the meeting can still vote by proxy using the proxy form provided in the Commission's Annual Report. Proxy voting permits you to appoint another Industry Member to vote on your behalf. Industry Members attending the election may carry a maximum of two proxy votes.

The completed proxy form must be faxed to the Commission office before 4:00 p.m. on Tuesday, March 16<sup>th</sup>, 2010 or presented to the Commission prior to the Annual General Meeting. You are encouraged to fax your proxy (468-1016 or 1-800-390-1016) to streamline the registration process.

## Appraisals and CMAs are different

The Commission is aware that some Industry Members are using the terms appraisals and comparative market analysis (CMA) interchangeably. The terms are not interchangeable

because appraisals and CMAs are two separate products developed by two different industry professionals.

An appraisal, what accredited appraisers do, is a formal estimate of a property's market value. The appraisal is typically delivered in writing and contains a thorough description of the property, as it appeared on a specific date, and supported by the presentation and analysis of relevant data. Written appraisal reports can range from lengthy documents (a narrative report) or a summary report (a form report).

A comparative market analysis (CMA), what Industry Members do, is not designed to estimate market value, but rather to establish a realistic listing price. This analysis is based on local active listings in the market and sales data to determine the probable sale price of a property in the current market. Sellers can use a CMA to help decide on a fair list price. Buyers can use a CMA to help them decide what to offer on a home they want to buy.

## Inappropriate comments

The Commission sometimes receives complaints from Industry Members regarding negative or derogatory comments made to members of the public about other Industry Members or brokerages. This issue also appears on some Industry Member Web sites. This is entirely inappropriate and unprofessional. This typically happens when an Industry Member is in competition with another Industry Member for a consumer's business or because of an ill-advised marketing effort. For example, an Industry Member who is not part of a sales team should not promote themselves at the expense of Industry Members who are, and vice versa. Article 26 of By-Law 702 states:

*The Industry Member shall never publicly discredit a competitor. If the Industry Member's opinion is sought regarding the specific transaction, it should be rendered with strict professional integrity and courtesy.*

Industry Members should be skilled in promoting and explaining their own services and value, not commenting on what other Industry Members or brokerages do or do not do.



## Commissioner nomination form

I, \_\_\_\_\_, licensed as a \_\_\_\_\_ with the  
\_\_\_\_\_ brokerage in the city/town of  
\_\_\_\_\_ consent to being nominated for election as a Commissioner of the  
Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a  
Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

The Industry Members signed below nominate the above Industry Member for election to the Nova Scotia Real Estate Commission (Must be signed by ten current Industry Members):

<i>Name (please print)</i>	<i>Signature</i>	<i>Brokerage</i>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

**Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission  
Nominations must be received by the Commission no later than 4:30 PM, February 17th, 2010.**

# nova scotia real estate COMMISSION

— News Bulletin 134 —

## Commission Annual General Meeting

The Commission Annual General Meeting will be held Wednesday, March 17<sup>th</sup>, 2010, at 1:00 p.m. in the auditorium at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 p.m.

## Commissioner election—request for nominations

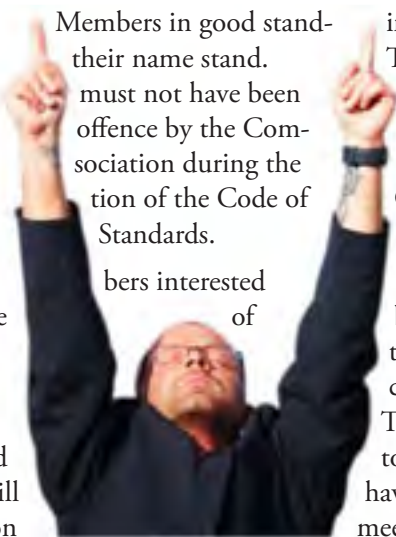
The annual election for an Industry Member to serve on the Commission Board of Directors will take place on Wednesday, March 17<sup>th</sup>, 2010, at 1:00 p.m., in the auditorium at 7 Scarfe Court, Burnside.

Any Industry Member who wishes to be placed on the Nomination list must complete the attached form and have it signed by ten Industry Members.

Nominations must be received by the Commission office no later than Friday, February 17<sup>th</sup>, 2010, at 4:30 p.m.

The election is for one Commissioner position with a three-year term commencing May 1<sup>st</sup>, 2010. The first person to receive 50 per cent plus one of the ballots cast will be declared elected.

All Industry eligible to let nominated guilty of any or a Board/As-years for viola-or Professional Industry Mem-should be aware seriousness of and the time ment involved. Member elected Commission will five Commission



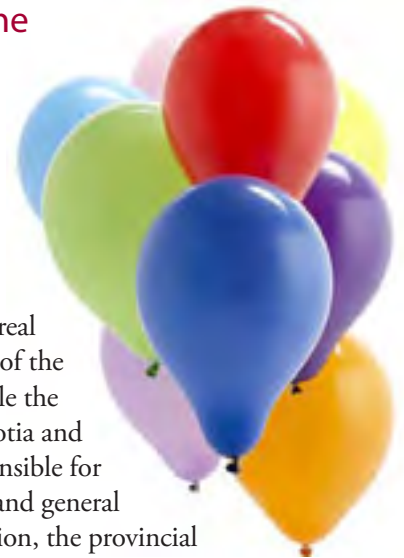
Members in good stand- ing are  
their name stand. Those  
must not have been found  
offence by the Com- mission,  
society during the tion of the Code of past two  
Standards. Conduct  
Members interested in serving  
of both the  
this position  
The Industry commit-  
to the  
have to attend  
meetings per

year and serve on one or more Commission committees.

Please feel free to call the Registrar should you have any questions or need more information before you put your name forward.

## Happy birthday to the Commission!

On January 20<sup>th</sup>, the Commission celebrates its 13<sup>th</sup> year in existence and the Nova Scotia real estate industry's 13<sup>th</sup> year of self-regulation. Prior to January 20<sup>th</sup>, 1997 regulation of the real estate industry was the duty of the provincial government. While the Minister of Service Nova Scotia and Municipal Relations is responsible for the Real Estate Trading Act and general monitoring of the Commission, the provincial government has no direct involvement in the day-to-day operations of the Commission.



The move from government regulation to self-regulation in Nova Scotia arose not only from a desire for more efficient consumer protection, but also from a drive within the industry for greater professionalism. The best interests of both the industry and the public are served when the Commission stops unethical or illegal business practice by investigating complaints and conducting disciplinary hearings and implements initiatives to improve the practice of real estate brokering in Nova Scotia.

## Introducing Bob Aaron columns

Bob Aaron, Toronto real estate lawyer with Aaron & Arron and author of *Title Page*, a *Toronto Star* weekly real estate column, has kindly given the Commission to publish his articles on our Web site, [www.nsrec.ns.ca](http://www.nsrec.ns.ca). Mr. Aaron's expert insight into the legal side of real estate makes his columns a must read for all real estate practitioners.



## Commissioner nomination form

I, \_\_\_\_\_, licensed as a \_\_\_\_\_ with the  
\_\_\_\_\_ brokerage in the city/town of  
\_\_\_\_\_ consent to being nominated for election as a Commissioner of the  
Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a  
Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

The Industry Members signed below nominate the above Industry Member for election to the Nova Scotia Real Estate Commission (Must be signed by ten current Industry Members):

<i>Name (please print)</i>	<i>Signature</i>	<i>Brokerage</i>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

**Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission  
Nominations must be received by the Commission no later than 4:30 PM, February 17th, 2010.**

# nova scotia real estate COMMISSION

— News Bulletin 133 —

## Observing Remembrance Day

The Commission reminds all Industry Members that no brokerage activities of any kind are permissible on Remembrance Day, including open houses, property showings, opening offices or negotiating transactions. The Commission office will also be closed in observance of Remembrance Day.



## The Commission's new Web site

The Commission is pleased to announce the launch of their redesigned Web site ([www.nsrec.ns.ca](http://www.nsrec.ns.ca)). The new Web site contains extensive consumer information about buying and selling houses as well as hot topics consumers need to be aware of, such as mortgage fraud and stigmatized properties. The Web site also contains resources for Industry Members about industry standards, licensing, complaints and investigations and lists of frequently asked questions. Industry Members are encouraged to review the FAQs and submit any questions they would like to see answered on the Web site to the Communications Officer ([pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca)). Please note that the Search for Industry Member is temporarily unavailable. If you wish to search for an Industry Member, you use the REALTOR® search function on MLS® located here: <http://www.mls.ca/realtorsearch.aspx>



## Advertising expired listings

It has recently been brought to the Commission's attention that some brokerages are advertising properties on their Web sites after the Seller Brokerage Agreements expire. By-Law 709 states that "an Industry Member shall only advertise properties for sale or for lease when written authority has been obtained from the seller or the seller's lawful designate." When a Seller Brokerage Agreement expires the brokerage no longer has the authority to advertise the property.

Further to that, the Seller Brokerage Agreement Clause 12 defines a brokerage's duties on termination of the agreement:

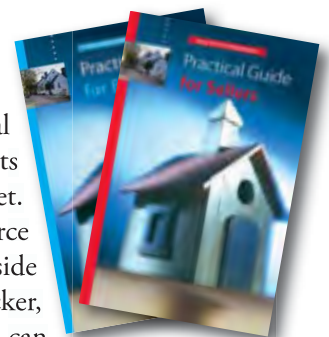
Immediately on the termination of this Agreement, the Brokerage will:

- remove the property as an active listing on any listing service;
- cease all marketing activities on behalf of the seller;
- remove all signs from the property;
- return all documents and other materials provided by the seller;
- remove any lockbox installed on the property

Brokerages cannot market properties past the expiration of the listing contract and have a contractual obligation to fulfill the requirements of the Seller Brokerage Agreement.

## Practical Guides for Buyers and Sellers

The Commission has Practical Guides for Buyers and Sellers booklets for sale at a cost of \$1.00 per booklet. These booklets are a welcome resource for clients and have room on the inside cover for a personalized stamp, sticker, or hand-written note. The booklets can be viewed on the Commission's new Web site at the following link: <http://www.nsrec.ns.ca/content.php?doc=73>





# nova scotia real estate COMMISSION

— News Bulletin 132 —

## Raising the bar—a two-day broker update

The Commission has worked with the Nova Scotia Association of REALTORS® to develop a two-day broker update course, that will be required Continuing Professional Education (CPE) for all broker-level Industry Members (Brokers, Managing Associate Brokers and Associate Brokers). This course is designed to achieve several goals:

- to be familiar with the resources available
- to ensure that Commission requirements for brokerage administration and supervision are understood
- to discuss the most common problems and issues related to brokerage management

This course is a mandatory requirement in addition to the one-day mandatory course “Legal Update” that all Industry Members must attend. “Raising the Bar” is only scheduled to run from October 21st to May 19th. All broker-level Industry Members are advised to review the schedule and register for this course. Bring the Broker Licensing Course materials you were recently provided and your Brokerage Manual with you to the course.

Upon course completion, broker-level Industry Members will receive three CPE credits for this licensing cycle and three credits for each of the 2011-2012 and 2012 licensing cycles.

One of the main reasons for “Raising the Bar” is the many changes that have taken place over recent years. Approximately half of Industry Members currently holding broker-level licences have never taken any broker-licensing course. Statistics from the Commission’s licensing database show the following:

Type of broker licensing course	Brokers	Managing associate broker	Associate broker	Totals
No course	113	9	24	146
Four-day course	21	3	3	27
Six-day course	65	22	42	129
Three-week course	11	6	10	27
<b>Totals</b>	<b>210</b>	<b>40</b>	<b>79</b>	<b>329</b>

## Beware of fraud at closing

In a fraud-at-closing scenario, a seller and a buyer agree on a cash amount that the seller will give the buyer when the property closes. For example, a property sells for \$200,000. The buyer finances the purchase with a \$10,000 down payment and a mortgage of \$190,000. Upon closing, the seller gives the buyer \$8,000 in cash from the proceeds of the house, reducing the sale price of the house to \$192,000. The lender, who mortgaged the house at a sale price of \$200,000, is never informed of this transaction.

This is not to be confused with a cash-back incentive, which is common in real estate trading, because in a cash-back situation, the lender is informed of the cash back amount and the mortgage is financed based on the true selling price of the house. In a fraud-at-closing scenario, the lender is not informed and the selling price of the house is inflated. While this may seem minor when compared to other types of mortgage fraud, the buyer is obligated by law to disclose all financial transactions to the lender.

## Disclaimers don’t hold up

Industry Members have an ethical obligation to ensure that the information distributed to the public and to other Industry Members is verified in accordance with generally accepted practices to guarantee its accuracy. This includes information on Web sites, classifieds, periodicals, listing cuts, and so on. Including a non-guarantee clause, such as “MEASUREMENTS DEEMED ACCURATE, BUYER TO VERIFY”, is not professional and will not protect you from legal claims. It is your job, as a licensed Industry Member, to be thoroughly knowledgeable about the properties you list and to document them accurately.

# nova scotia real estate COMMISSION

— News Bulletin 131 —

## End of 2008–2009 licensing cycle

June 30, 2009 marks the end of this licensing cycle. All brokerages were required to have their licence renewals in by June 15<sup>th</sup>. In addition, all Industry Members were required to have their CPE courses completed by June 30<sup>th</sup>. This bulletin contains the list of brokerages and Industry Members whose licences have not been renewed. This lapse in licensing means that they are not permitted to trade in real estate until the information/fees are provided or the courses are completed.

The licences of all other Industry Members who have complied with renewal requirements have been renewed. The Commission plans to have actual licences and wallet cards distributed to brokerages by July 15<sup>th</sup>. The status of whether or not a person or brokerage is licensed is determined by the Commission Registrar, not by holding an actual paper licence.

## New licensing cycle

July 1st, 2009 will mark the beginning of the next licensing cycle, which runs through to June 30, 2010. The Commission has specified that all Industry Members must complete a one-day Legal Update mandatory course for the next cycle.

NSAR is currently preparing the courses for the 2009–2010 licensing cycle. The course schedule will be distributed to all brokerages around the end of August. There will be elective courses available in addition to the mandatory courses. The first courses will run in September. There will not be any courses, for this licensing cycle, offered in July–August, as there has been little interest in summer courses in the past.



## Last minute remuneration changes—clarification

In the last Bulletin there was a brief article on problems that arise when it is not clear to a cooperating brokerage how a commission is to be calculated. The listing brokerage cannot arbitrarily change the posted commission being paid to a cooperating brokerage. The point of the article is that before a transaction is put together the selling brokerage must make it clear how the commission is to be calculated if it does not follow the norm of commission being based on a percentage of the sale price. That is if there are exceptions such as commission not paid on cash-backs to a buyer or on add-ons to a new construction contract. Once negotiations are finalized the listing brokerage must have agreement with the cooperating brokerage before there are any changes to the cooperating commission calculation.

## 2008–2009 make-up courses

Industry Members who still need to complete the CPE mandatory and/or elective course requirements for the 2008–2009 licensing cycle can enroll in the make-up courses offered by NSAR on the following dates:

### ***Elective—Building a Business Plan***

July 9th, 9:00 a.m. to 12:00 p.m.

### ***Mandatory—Risk Management For Errors & Omissions***

July 13th, 9:00 a.m. to 4:00 p.m.

**Contact NSAR to register for your courses**

# nova scotia real estate COMMISSION

— News Bulletin 130 —

## Last minute remuneration changes



The Commission frequently gets calls from upset Industry Members because the listing brokerage reduced the cooperating brokerage's remuneration due to a recalculation of the gross commission. This occurs when the listing brokerage deducts the cash-back amount from the purchase price or doesn't include the value of add-ons in new construction. If these types of changes take place, the listing brokerage must tell the cooperating brokerage when the changes are made. If the listing brokerage doesn't say anything and the cooperating brokerage receives a smaller-than-expected commission cheque after closing, frustration ensues. To avoid this situation, inform the cooperating brokerage any time the commission payable changes from the standard calculation of remuneration based on the gross sale price.

## CPE requirements—time is running out!!!!

All Industry Members are reminded that annual CPE requirements must be met by June 30th, 2009. If you don't complete your courses, your licence will not be renewed July 1<sup>st</sup> and you will not be able to trade in real estate. You will also be required to stop all advertising, remove For Sale signs and shut down Web sites. Time is running out!



## Transferring between brokerages

Most transfers between brokerages take place without any controversy, but occasionally Industry Members can run into problems. The most serious problem occurs when a transferring Industry Member contacts all their clients who are under contract, like sellers who are listed or buyers under a Buyer Brokerage Agreement, and tells them they are moving to a different brokerage and suggests that they contact the broker if they want to cancel their agreement and move with them to the new brokerage. This is very clearly interfering with the contractual relationships of the first brokerage. Contracts are with the brokerage, not the individual Industry Member.

Industry Members may contact their clients and tell them they are leaving that brokerage and going to another one, but they cannot do anything to coach or encourage their clients to break their contracts with the current brokerage. If the client has any questions regarding the status of the contract they should be told to contact the broker. This applies to both Common Law brokerages and Designated Agency brokerages. Industry Members who do not respect the legally binding nature of contracts are in violation of the Act and By-Law and risk disciplinary action.

**SELLER BROKERAGE AGREEMENT**  
Approved by the Real Estate Council of Nova Scotia on 11/11/08 and by the Real Estate Council of New Brunswick on 11/11/08

This exclusive Seller Brokerage Agreement (This Agreement) is between:

**The Seller:** and **the Seller's Brokerage (The Brokerage):**

Name _____	Brokerage Name _____
Address _____	Address _____
Phone _____ Fax _____	Phone _____ Fax _____
Email _____	Email _____

# nova scotia real estate COMMISSION

— News Bulletin 129 —

## The News Bulletin gets a brand new look

This is the first news bulletin that features the new design and new logo. Why the change? Having a single, cohesive look enables us to communicate with you more effectively. Our bulletins contain a lot of important information and we hope you find the new design presents articles in an interesting and easy to read format.

## Deadlines fast approaching!



All Industry Members are reminded that annual CPE requirements must be met by June 30<sup>th</sup>, 2009. If you do not complete your mandatory courses by the deadline, your licence will not be renewed July 1<sup>st</sup> and you will not be able to trade in real estate. Licence renewal applications with applicable payment must be submitted to the Commission no later than June 15<sup>th</sup>. If you have not received your licence-renewal package by May 19<sup>th</sup>, contact the Commission.

## Your duty to be available

Article 39 of the Conduct and Trade Practices defines the obligations of an Industry Member to their client. As the seller's representative, one of these obligations is to present, in a timely manner, all offers and counter-offers to and from the seller even when the property is already the subject of an Agreement of Purchase and Sale. To perform this duty, the seller's representative must be available to receive all offers

and counter-offers so they can be presented in a timely manner.

Industry Members who fail to make themselves available are in violation of the Commission By-Law, for which you can be sanctioned, and in breach of your contract with the client, which can be grounds for the client to terminate the contract.



## Subscription Web site providers



There are a number of subscription Web site providers that create Web sites from templates for individual Industry Members. The Web site providers offer a number of different templates and also supply the content for the Web site pages. Any Industry Member who wishes to use the services of a subscription Web site provider may do so, however, the Industry Member is responsible for ensuring that all content on the Web site complies with the Real Estate Trading Act, the Commission By-Law, and Policy and Procedures. Specifically, the Web sites must comply with:

### Firm and representative identification

This means identifying the Industry Member by first and last name and displaying employing brokerage clearly and prominently on every page. To permit creativity and individuality in Web sites, the Commission does not want to define a mandatory placement for the brokerage name and Industry Member name, however, clearly and prominently means anyone viewing a Web site page should be immediately able to tell who the site belongs to and which brokerage they work for. If the viewer has to scroll down the page or search for the site owner's name, the rules for firm and representative identification have not been met.

### No anonymous free consumer info sites

These sites may look like consumer information Web sites, providing free real estate information and reports to consumers; however, the e-mail and telephone numbers belong to Industry Members. These sites are prohibited. While the Web site may provide free



consumer information, the purpose of the Web site is to solicit clients. This violates the Commission requirements for firm and representative identification in advertising and also misleads the consumer, which is a violation of both the Real Estate Trading Act and the Competition Act.

## Incentives

Industry Members must ensure that any incentives promoted on a Web site are offered at a brokerage-wide level. For example, advertising a guaranteed sale, such as, “if your house does not sell in 120 days, we’ll pay you cash,” is permitted only if brokerage is offering the incentive to everyone.

## Web site-provider content

While the offer of free Web site content may be appealing because it saves time and effort, the information must be true, accurate and specific to trading real estate in Nova Scotia. For example,

the statement “we are working with over 300 buyers at any given time” can only be used if the Industry Member really is working with over 300 buyers at any given time and can factually prove this statement, otherwise it is misleading advertising. Another example is “Your home will receive more exposure (We outspend all area reps to market our homes)”. Again, only if this statement is true and can be proven, can it be used. As an Industry Member, you are obliged to render skilled and conscientious service. Beyond the realm of misleading advertising, if you rely on a Web site provider to supply all content for your site and it contains errors, omissions, and/or inaccurate content, you are failing to provide skilled and conscientious service. The onus is not on the Web site provider to verify the accuracy of the information; it is on you as an Industry Member.

### How To Tornado-Proof Your Mobile Home

First, tie down your water heater.

At least 12 people, including 8 from one Oklahoma mobile-home park, died when a tornado tore through the Midwest early Sunday. Recovery workers continue to search for bodies. What can mobile-home owners do to stay safe during a tornado?

## Free Internet classifieds

Industry Members must clearly identify themselves and their brokerage in all Internet classifieds. This means including their name exactly as it appears on their licence (or a nickname that is registered with the Commission) and the complete name of their brokerage in the subject line or body of the advertisement. For Internet classified sites like kijiji.ca, that do not accommodate graphics within the subject line or body of the advertisement and inserting the brokerage logo is not possible, include this information as text as shown in the example above right. Including this information in the photo section of the advertisement is not acceptable because the information is too small to be legible from the main page of the ad.

Free local classifieds   All Ads ▾

[Halifax](#) > [housing](#) > [housing for sale](#)

### House for sale - Anytown

**Price \$366,000**

---

<b>Bedrooms:</b> 4	<b>Address:</b> 8 North Street
<b>Bathrooms:</b> 3.5	Anytown, NS
<b>Size:</b> 2700 sq/ft	<b>Date listed:</b> 22-Feb-09

This property is being sold by **John Smith** of **XYZ Atlantic Realty Ltd.** For inquiries or to view, please contact **John Smith** at (902) 555-7283 or email **John** at [john.smith@xyzatlantic.ca](mailto:john.smith@xyzatlantic.ca). You can also view this property at [www.realtor.ca](http://www.realtor.ca), MLS® number: **85740007**

**8 North Street**  
**Dartmouth NS,**  
**B3A 3N0**  
Lovely 2700 square foot, four bedroom, three-and-a-half bath, split-level home with double-attached garage on a corner lot. Home is located on a bus route and within walking distance to Woodside ferry.

[View poster's other ads](#) | [Watch this Ad](#) | [Print Ad](#) | [Email this Ad to friend](#)

## Listing agreements are with the brokerage

When an Industry Member leaves one brokerage to go to another, the question of what happens to their listings is occasionally raised. A Seller Brokerage Agreement is a contract between the seller and the brokerage, not the listing representative. If an Industry Member leaves a brokerage, they can take listings with them only with the written permission of the brokerage that holds the listings and the seller.

## Compliance wants you to remember...

Deposits must be obtained in accordance with the terms of the agreements and must be deposited into the Trust Account within two business days. If the brokerage does not receive the funds as specified in the agreement, the seller must be notified in writing.

The NOVA SCOTIA REAL ESTATE COMMISSION ensures consumer confidence by setting and enforcing standards of conduct for the industry, promoting the integrity of the industry, providing services that enhance and improve the industry, and administering the Act, the By-Law and Policies.

Contact us:

7 Scarfe Court  
Dartmouth, NS  
B3B 1W4

Phone: (902) 468-3511 | (800) 390-1015

Fax: (902) 468-1016 | (800) 390-1016

E-mail: General Information – [info@nsrec.ns.ca](mailto:info@nsrec.ns.ca)

Licensing Information – [licensing@nsrec.ns.ca](mailto:licensing@nsrec.ns.ca)

Complaints – [compliance@nsrec.ns.ca](mailto:compliance@nsrec.ns.ca)

Communications – [pkell@nsrec.ns.ca](mailto:pkell@nsrec.ns.ca)

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

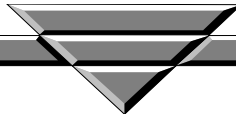
Fax # 902-468-1016

#128

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



April 17, 2009

## Commission News

**Commissioner Update** – Congratulations to Gord Burns of Century 21 ABC Limited in Dartmouth, on his election to the Commission. Congratulations also to John MacKay of MacKay Real Estate Limited in Wolfville, on his re-appointment to the Commission by NSAR. Both terms run from May 1, 2009, to April 30, 2012.

**Interest on Trust Deposits** - Most deposits are placed in a brokerage's main trust account, but on occasion the deposit is placed in a special trust account, set up by the brokerage, and the interest is paid to one of the parties to a transaction. This is usually only done when the deposit amount is significant and it will be held in trust for a longer period of time, such as for condominium project under construction. If the interest is to be paid to either the buyer or the seller a clause must be included in the Agreement of Purchase and Sale stating that the deposit is to be placed in an interest bearing trust account and the interest is to be paid to either the buyer or seller. Failure to detail this properly in the Agree. of P&S can lead to conflict later.

**Locking Doors After Show ings** – Over the years there have been numerous instances where Industry Members showing properties have locked out the sellers. This happens when there is more than one lock on the door which is used to gain entry. Typically, the seller has provided the listing brokerage with a key to the deadlock. When an Industry Member showing the property enters they use the key for the deadbolt to gain access. When the showing is over they exit, but unfortunately sometimes lock the handset as well as the deadbolt. This locks out the seller if the seller does not carry the key for the handset. It is not a problem if keys for both have been provided, but if only the deadbolt key is used then only the deadbolt should be locked when exiting. This has resulted in locksmith bills being paid by several Industry Members because of this error. Please only lock, when leaving, what you unlocked when entering the property.

**An Introduction to Property Law in the Maritimes** – This is an excellent course offered by the Nova Scotia Community College. It is run for four-days spread out over four weeks and will be put on at the new Community College in Dartmouth. The instructor's background for this course is experience as a land surveyor, lawyer and teacher. He is able to teach this information in a very practical and easy to understand way. Registration information is available by calling (902) 584-2228 or emailing [bea.sturney@nsc.ca](mailto:bea.sturney@nsc.ca). This course qualifies as an elective for your annual CPE requirements.

**Occupational Health and Safety** – Brokers are reminded that all brokerages are required to conform to the provincial Occupational Health and Safety Act. Requirements under this Act effect not only direct employees of your brokerage but also has special rules around your relationship with independent contractors, as well as customers of your brokerage. Brokers should ensure their brokerage meets the requirements of this legislation.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

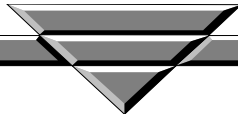
Fax # 902-468-1016

#127

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



March 13, 2009

## Commission News

**Annual General Meeting Notice** – The Commission's Annual General Meeting will be held on Wednesday, March 18<sup>th</sup> 2009, at 1:00 PM in the Auditorium at 7 Scarfe Court, Burnside. A light lunch will be provided between 12-1:00 PM in Classrooms A & B for those Industry Members staying after the NSAR Annual General Meeting that morning.

**Proxies for Commission Election**– There seems to be some confusion over the use of proxies. A proxy is not used to vote, it is used to assign your vote to another person who will be attending the Commission AGM and who will vote on your behalf. A person attending the AGM can only carry proxies for two other people. When you assign your proxy to another person, you must first check with them to ensure they will be attending the AGM and that they will not be carrying more than two proxies, otherwise your proxy will be invalid and wasted.

**Listing Extensions** – As a result of an article in the Commission's 2008 Annual Report, the Commission has been contacted by a number of Industry Members on this issue. Some Industry Members are mixing up two separate issues. One is the extension of a Brokerage Agreement (the contract) and the other is the reactivation of the listing information on the MLS<sup>®</sup>.

A listing can only be extended if the Seller Brokerage Agreement is still in effect and has not expired. Once it has expired, there is no longer a contract in place to extend. The proper time to extend a listing is before it expires and this can be done using a simple Amendment Form. Once the listing has expired, it is necessary for a new Seller Brokerage Agreement to be completed to renew the listing. If the listing is on MLS<sup>®</sup> then the MLS<sup>®</sup> Amendment Form is used to extend or reactivate the listing information on the MLS<sup>®</sup>.

**Copyrighted Photos** – Industry Members are cautioned to ensure they have permission to use photos and graphics in advertising or on Web sites. Some images are copyrighted and require you to pay for the right to use them. Others are royalty free, which are available to anyone to use freely without charge. A Commissioner recently brought it to the attention of the Commission that a Web site owner was charged almost \$4,000 for having used copyrighted pictures without permission.

**Sharing of Listing Information** - With the ease of copying and displaying information on the Internet, some Industry Members are placing listing information on their Web sites of properties listed by other brokerages. This is allowable as long as two conditions have been met:

- The seller has authorized this sharing in writing (normally as one of the selections in the Seller Brokerage Agreement), and
- The listing brokerage is always clearly identified as part of the listing information being provided.

**Brokers/Managers – Please share this information with your Salespeople**

.../2

## **Commission News #127**

**Seller Videotaping Showings** - A brokerage brought it to the attention of the Commission that a seller for one of the brokerage's listings was secretly videotaping buyers when they were viewing the property. This raises several privacy concerns. The Commission will be contacting the Privacy Commissioner on this issue and will pass their response on as soon as it is received. In the meantime, Industry Members representing buyers should always caution their buyers about when and where discussions should take place and always assume that someone may be listening. With the existence of nanny cams, Web cams, baby monitors, video cameras, etc., you can never be sure who might be listening. Don't assume that because the sellers are sitting in the downstairs rec room while you are showing the house that they can't hear what is being said. Also, when showing new construction there are often tradespeople around, so be cautious about what comments get made because they could easily be passed back to the contractor/seller.

**Charitable Donations** – The Commission revisited this issue at its last meeting. The question was, “Where do charitable donations fit within the requirements around advertising incentives?” Sometimes an Industry Member will advertise that they will give a percentage or a specific amounts of their commission to a specific organization, such as their church or a sports league. The recipient of this money is not a party to the transaction and has no involvement with the transaction. The Commission has decided this is acceptable and not considered an incentive under the advertising rules, as long as the recipient is a registered charity. If the recipient is not a registered charity and it is not being done on a brokerage-wide basis as an incentive, then it is not permitted.

**Brokers/Managers – Please share this information with your Salespeople**



# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

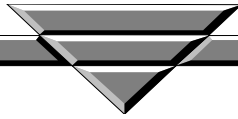
Fax # 902-468-1016

#126

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



March 4, 2009

## Commission News

**Annual General Meeting Notice** – The Commission's Annual General Meeting will be held on Wednesday, March 18<sup>th</sup> 2009, at 1:00 PM in the Auditorium at 7 Scarfe Court, Burnside. A light lunch will be provided between 12-1:00 PM in Classrooms A & B for those Industry Members staying after the NSAR Annual General Meeting that morning.

**Nominations for Commissioner** – The Commission received the nominations shown below, for the election to be held at the Commission's Annual General Meeting. It is important that all Industry Members attend or submit their proxy so that your voice is heard.

The nominees are:

Gordon Burns	Salesperson	Century 21 ABC Realty Limited
Denis Dommer	Associate Broker	Royal LePage Atlantic
Wendy Spencer	Broker	Exit Realty Metro

**Re-appointment of Commissioner** – The NSAR re-appointed John MacKay, of MacKay Real Estate in Wolfville, to a second three-year term as an industry Commissioner. The second term starts May 1, 2009.

**Annual Reports** – The Commission couriered the Annual Reports to all brokerages this week. If you have not received them by Friday of this week, please contact the Commission office and let us know. A full size Annual Report has been sent to every office and an abbreviated version has been provided for every Industry Member. Both versions are available in color on the Commission Web site under Publications/Annual Reports.

**Buyers Wanting to Re-visit Property After The Transaction Is Firmed Up** – Sometimes a buyer wants to go back into a property after their offer is accepted to measure for flooring, curtains, appliances, etc. Most salespeople and sellers want to accommodate, but this can lead to complications for the transaction, especially if a buyer wants to go back into the house several times prior to closing. Sellers can tire of the requests and have the right to refuse all access except for those stipulated in the Agreement, such as the inspection or pre-closing viewing. The more times a buyer visits a property, the more chances there are for issues or complications to arise. Buyers should be advised early on that if they want to measure or check out anything in particular, they should do it while in the house for their inspection.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

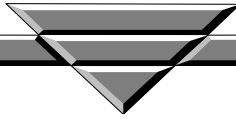
Fax # 902-468-1016

#125

1-800-390-1015

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1-800-390-1016



February 9, 2009

## Commission News

**CPE Courses – Correction!** – The last Commission News, in error, said that all Industry Members had to complete the two-day *Agency Fundamentals* course and would not be required to complete an elective. It should have read that all Industry Members must complete the one-day *Risk Management for Errors and Omissions Insurance* course and also complete an elective course.

All Industry Members are reminded that annual CPE requirements must be met by June 30<sup>th</sup>, 2009. The consequence of not completing your courses is that your licence will not be renewed July 1<sup>st</sup> and you will not be able to trade in real estate. You will also be required to stop all advertising, remove For Sale signs and shut down Web sites. With less than six months left, it is strongly recommended that you do not leave this to the last minute. Take the time to get your courses in the winter while business is reasonably quiet. Don't wait until May-June when you are very busy.

**Commission Staffing Change** – The Commission Compliance Auditor Carolin MacDonald will be away on maternity leave starting February 20, 2009, and will be returning in February 2010. We wish Carolin well with the addition to her family. Sue Best, a new Compliance Auditor who started with the Commission in December 2008 will be carrying out the audit function while Carolin is away. Upon Carolin's return the two Compliance Auditors will share the audit workload and also assume some responsibilities now currently carried out by the Registrar and the Compliance Officer.

**Amendment To The Agreement of Purchase and Sale – Form 421** – The Commission audits have been regularly identifying the improper completion of this form. The form consists of two pages. The first page is the request for changes to the Agreement, which usually comes from the Buyer. Page two is the response, which is usually from the Seller. In the signature block of page one check off "Buyer" if the amendment is being proposed by the Buyer. On page two, check off "Seller" in the signature block for the response. Page two allows for two categories of responses. The top section is for general amendments that do not refer to the Home Inspection Clause. The lower section is for responding to any amendment requests that involve the Home Inspection Clause. The top of page two should be completed with the information describing the address and parties to the Agreement and both pages should be initialed at the bottom by both the Buyer and the Seller. Page two must always be completed by the responding party, who is usually the Seller.

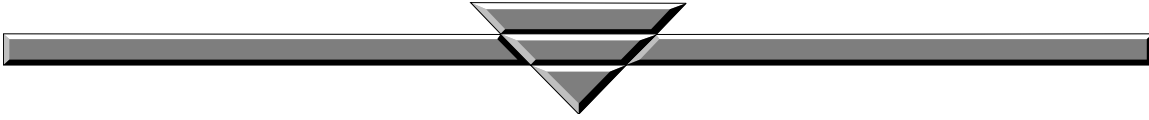
**Annual Meeting of the Commission** – The Annual Meeting will be held on Wednesday, March 18<sup>th</sup>, 2009, at 1:00 PM. The meeting will be held in the auditorium of the real estate building at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 PM. There will be an election for a Commissioner held at the Commission's Annual Meeting. Information and nomination forms are attached. Nominations must be received no later than Friday, February 27<sup>th</sup>, 2009, at 4:30 PM. If you are interested in putting forward a nomination, but require more information, please call the Registrar.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

7 Scarfe Court  
Dartmouth, N.S.  
B3B 1W4

Phone # 468-3511 or 1-800-390-1015  
Fax # 468-1016 or 1-800-390-1016



## **-Request for Nominations-**

The annual election for an Industry Member to serve on the Nova Scotia Real Estate Commission will take place on Wednesday, March 18<sup>th</sup>, 2009, 1:00 PM, in the auditorium of the real estate building at 7 Scarfe Court, Burnside.

Any Industry Members interested in putting their name forward must complete the attached form and have it signed by ten Industry Members in order for their name to be placed on the Nomination List.

**Nominations must be received by the Commission office  
no later than Friday, February 27<sup>th</sup>, 2009, at 4:30 PM.**

The election will be for one position on the Commission. The term of the position will be for three years commencing May 1<sup>st</sup>, 2009. The first person to receive 50 per cent plus one of the ballots cast will be declared elected.

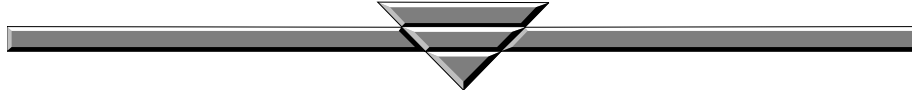
All Industry Members in good standing are eligible to let their name stand. Those nominated must not have been found guilty of any offence by the Commission, or a Board/Association during the past two years for violation of the Code of Conduct or Professional Standards.

Persons interested in serving should be aware of both the seriousness of this position and the time commitment involved. The Industry Member elected to the Commission will have to attend five Commission meetings per year and serve on one or more committees of the Commission.

Please feel free to call the Registrar should you have any questions or need more information before you put your name forward.

# -Nomination Form-

## for the NOVA SCOTIA REAL ESTATE COMMISSION



I, \_\_\_\_\_, who is licensed as a \_\_\_\_\_ with the \_\_\_\_\_ Brokerage in the city/town of \_\_\_\_\_ consent to being nominated for election as a Commissioner of the Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

The Industry Members signed below nominate the above Industry Member for election to the Nova Scotia Real Estate Commission (*Must be signed by ten current Industry Members*):

	Name (Please Print)	Signature	Brokerage
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____

**-Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission- Nominations must be received by the Commission no later than 4:30 PM, February 27<sup>th</sup>, 2009.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

Fax # 902-468-1016

#124

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016

January 29, 2009

## Commission News

**Annual Meeting of the Commission** – The Annual Meeting will be held on Wednesday, March 18<sup>th</sup>, 2009, at 1:00 PM. The meeting will be held in the auditorium of the real estate building at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 PM.

**Election of a Commissioner** – There will be an election for a Commissioner held at the Commission's Annual Meeting on March 18<sup>th</sup>. Information and nomination forms are attached. Nominations must be received no later than Friday, February 27<sup>th</sup>, 2009, at 4:30 PM. If you are interested in putting forward a nomination, but require more information, please call the Registrar.

**CPE Courses** – All Industry Members are reminded that annual CPE requirements must be met by June 30<sup>th</sup>, 2009. The consequence of not completing your courses is that your licence will not be renewed



July 1<sup>st</sup> and you will not be able to trade in real estate. You will also be required to stop all advertising, remove For Sale signs and shut down websites. With less than six months left, it is strongly recommended that you do not leave this to the last minute. Take the time to get your courses in the winter while business is reasonably quiet. Don't wait until May-June when you are very busy.

All Industry Members must complete the *Risk Management for Errors and Omissions Insurance* course. In addition, an elective is required for this licensing cycle.

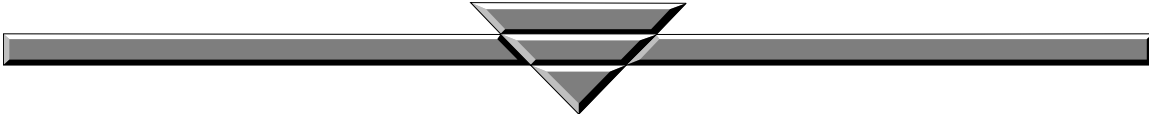
**Advertising standards and the Internet** – All Industry Members are reminded that they must clearly identify themselves and their brokerage on all advertising. Clearly identified means the Industry Member's name as it appears on their licence and their brokerage name as it appears on their licence. The Commission's Communications Officer, Peggy Kell, is tasked with monitoring real estate advertising in its various mediums and reporting her findings to the Registrar. While there is usually full compliance with self- and brokerage-identification in newspaper, television, and trade publications, a recent review of real estate advertisements on kijiji.com revealed that 48 per cent of all advertisements posted by Industry Members did not comply with identification standards. The most frequent issues were failure to name the brokerage and failure to provide the complete name of the Industry Member. Use of a first name only, use of a "selling team" name and not a brokerage name, is not acceptable and Industry Members who continue to do so risk being sanctioned.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

7 Scarfe Court  
Dartmouth, N.S.  
B3B 1W4

Phone # 468-3511 or 1-800-390-1015  
Fax # 468-1016 or 1-800-390-1016



## **-Request for Nominations-**

The annual election for an Industry Member to serve on the Nova Scotia Real Estate Commission will take place on Wednesday, March 18<sup>th</sup>, 2009, 1:00 PM, in the auditorium of the real estate building at 7 Scarfe Court, Burnside.

Any Industry Members interested in putting their name forward must complete the attached form and have it signed by ten Industry Members in order for their name to be placed on the Nomination List.

**Nominations must be received by the Commission office  
no later than Friday, February 28<sup>th</sup>, 2009, at 4:30 PM.**

The election will be for one position on the Commission. The term of the position will be for three years commencing May 1<sup>st</sup>, 2009. The first person to receive 50 per cent plus one of the ballots cast will be declared elected.

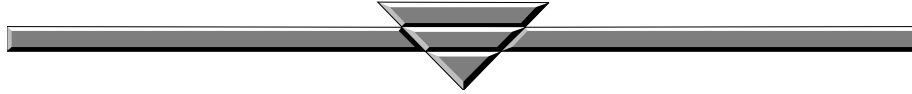
All Industry Members in good standing are eligible to let their name stand. Those nominated must not have been found guilty of any offence by the Commission, or a Board/Association during the past two years for violation of the Code of Conduct or Professional Standards.

Persons interested in serving should be aware of both the seriousness of this position and the time commitment involved. The Industry Member elected to the Commission will have to attend five Commission meetings per year and serve on one or more committees of the Commission.

Please feel free to call the Registrar should you have any questions or need more information before you put your name forward.

# -Nomination Form-

## for the NOVA SCOTIA REAL ESTATE COMMISSION



I, \_\_\_\_\_, who is licensed as a \_\_\_\_\_ with the \_\_\_\_\_ Brokerage in the city/town of \_\_\_\_\_ consent to being nominated for election as a Commissioner of the Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

The Industry Members signed below nominate the above Industry Member for election to the Nova Scotia Real Estate Commission (*Must be signed by ten current Industry Members*):

	Name (Please Print)	Signature	Brokerage
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____

**-Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission- Nominations must be received by the Commission no later than 4:30 PM, February 27<sup>th</sup>, 2009.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

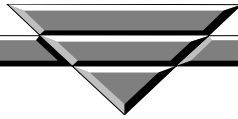
Fax # 902-468-1016

#123

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



December 17, 2008

## Commission News

**Commission Holiday Office Hours** – Over the Christmas week the Commission offices will close at noon on Wednesday, December 24<sup>th</sup> and re-open on Monday, December 29<sup>th</sup>. The office will close at noon on Wednesday, December 31<sup>st</sup> and re-open on Friday, January 2<sup>nd</sup>.

**Licensing Exams – January Writing** – Due to the holidays, January's licensing exam will be written on January 9<sup>th</sup>. Anyone wishing to write on the 9<sup>th</sup> must register for the exam no later than January 2<sup>nd</sup>.

**New Commission Staff** – The Commission has created two new staff positions. An overview for each one is shown below.

**Communications Officer – Peggy Kell** – This position was created as a result of the Commission's strategic planning sessions in 2008. The Commission wants to improve its communications with the industry as well as create a higher profile with the public. The Communications Officer will also serve the primary contact for Industry Members for all advertising issues, concerns, and questions. The Commission has a number of projects and publications that were on hold that will now move forward with the addition a communications expert.

Peggy Kell has a background in communications, design, and technical writing.

**Compliance Auditor – Sue Best** – Over the last six years the Commission has seen the industry increase from 1,250 people to its current 1,835. The number of real estate transactions over that time period has also increased. This has resulted in more audits, more enquiries, and an increase in complaints. The Commission has hired a second Compliance Auditor to increase capacity and to transition some of the work carried out by the Registrar and the Compliance Officer to the two audit positions. The auditors will deal with many of the general inquiries from both the industry and the public and enable the Registrar and Compliance Officer to move on to new projects.

Sue Best has a background in both commercial and residential sales.

**Advertising of Sold Properties** – After a property transaction is complete, the listing brokerage must have the seller's permission to advertise the sold property. The buyer's representative must have the permission of the listing brokerage and the advertising must indicate that they represented the buyer in the transaction. To advertise the sold price of the property, all brokerages must have permission from both the seller and the buyer.

**Brokers/Managers – Please share this information with your Salespeople**



# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

Fax # 902-468-1016

#122

1-800-390-1015

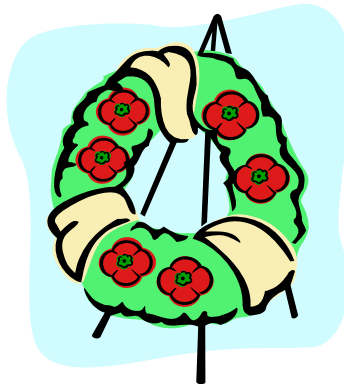
[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016

November 5, 2008

## Commission News

# Remembrance Day



The issue of what real estate brokerage services can be carried out on Remembrance Day arises every fall. Last year, this provincial holiday fell on a Sunday and many individuals held open houses leading to several complaints. As a result, the Commission consulted the provincial legislation, the Remembrance Day Act, and legal counsel. The Commission is advising all Industry Members that **no brokerage activities of any kind are permissible on Remembrance Day**, including open houses, showing properties, offices open or negotiating transactions.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

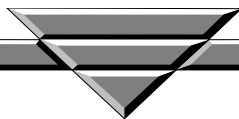
Fax # 902-468-1016

#121

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



October 27, 2008

## Commission News

**Remembrance Day** – The issue of what real estate brokerage services can be carried out on Remembrance Day arises every fall. Last year, this provincial holiday fell on a Sunday and many individuals held open houses leading to several complaints. As a result, the Commission consulted the provincial legislation, the Remembrance Day Act, and legal counsel. The Commission is advising all Industry Members that **no brokerage activities of any kind are permissible on Remembrance Day**, including open houses, showing properties, offices open or negotiating transactions.

**Commercial Forum** – A Commercial Forum (CPE Course) is taking place this Thursday, October 30<sup>th</sup> from 9:00 AM to 12:30 PM. The main topic is HRM By Design, where various speakers will present from the planner's point-of-view and also the developer's. This will be followed by a short presentation by the Registrar on agency disclosure in commercial real estate transactions and disclosure of commissions being paid to commercial practitioners. To register, NSAR members should contact NSAR through their website online registration or for non-members by calling 468-2515. This session qualifies as three credits for your elective CPE requirement.

**New Public Commissioner** – The Executive Council of the provincial government appointed **Ms. Avis Chapman of Amherst** to a three-year term as a public representative on the Nova Scotia Real Estate Commission starting September 30, 2008. This appointment replaces Mr. Howard Oakey who has served for the last six years.

**Directional Signs** – Unfortunately, the Commission has to continually remind Industry Members that only the generic directional signs are acceptable for placement at intersections / street corners. The signs cannot be attached to power poles, municipal signs or highway signs. Use of brokerage signs for this purpose is not acceptable unless the signage is placed on private property, with the permission of the property owner. In recent months, there have been several Industry Members fined \$500 for breaching these requirements.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

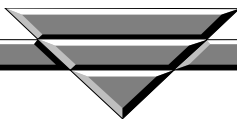
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#120

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



August 8, 2008

## Commission News

**Continuing Education** – NSAR will be distributing the *Education Sourcebook* by the end of August. This will provide the course schedule for the 2008-2009 licensing cycle. The Commission requires Industry Members to complete the one-day Mandatory Course, *Risk Management Strategies for Errors and Omissions Insurance*, by June 30, 2009. In addition, Industry Members are required to complete one elective course. It is recommended that you take these courses as soon as possible to avoid complications in the spring with your busy schedule and course availability.

**Release of Information to Mortgage Brokers** – The Commission has been made aware, by mortgage brokers, that it is sometimes difficult to get copies of Exclusive Brokerage (Listing) Agreements from the listing brokerage in order to move forward with a mortgage application and approval. When a listing is exclusive and not placed on MLS the mortgage brokers sometimes require proof of an actual listing. Some Industry Members have told mortgage brokers that it would be against either NSREC or NSAR rules to provide the Agreement. That is not correct. The only permission the brokerage requires in order to release the Agreement is from the Seller. Usually the Seller would not have any problem with releasing it as it helps finalize the sale of their property.

**Notice/Waiver/Release/Termination – Form 430B** – There has been some confusion over the last section of this form, the Buyer Waiver/Release/Termination. There is a place for a representative of the brokerage to sign off. It does not have to be the broker, any Industry Member that is involved can sign on behalf of the brokerage. A brokerage representative does not have to sign in order for the release to take place, but it is advisable that it be signed as it provides acknowledgement of the release. The signing of this release by a brokerage representative does not affect the terms Seller Brokerage Agreement.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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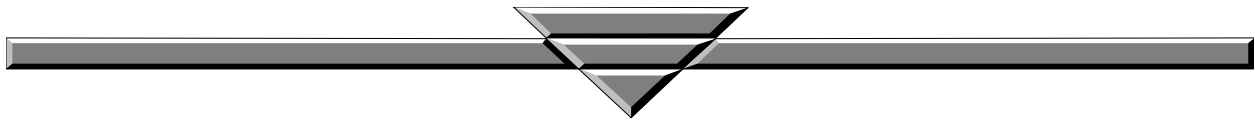
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July 9, 2008

## Commission News

### Reinstatement of Licences

Article removes as per Bylaw 839

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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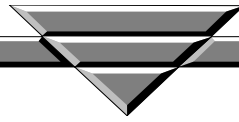
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June 30, 2008

## Commission News

**End of 07-08 Licensing Cycle** – June 30, 2008 marks the end of this licensing cycle. All brokerages were required to have their licence renewals in by June 16<sup>th</sup>. In addition, all Industry Members were required to have their CPE courses completed by June 30<sup>th</sup>. Attached is a list of brokerages and individuals whose licences have not been renewed. This lapse in licensing means that they are not permitted to trade in real estate until the information/fees are provided or courses completed.

All other Industry Members that have complied with renewal requirements have been renewed. The actual licences and wallet cards are expected to be distributed to brokerages by July 15<sup>th</sup>. The status of whether or not a person or brokerage is licensed is determined by the Registrar of the Commission and not by holding an actual paper licence.

**New Licensing Cycle** – July 1<sup>st</sup> will mark the beginning of the next licensing cycle, which runs through to June 30, 2009. The Commission has specified that all Industry Members must complete the one-day *Risk Management Strategies for Errors & Omissions Insurance* mandatory course for the next cycle. In addition, all Industry Members must complete a half-day elective course.

NSAR is currently preparing the courses for the 2008-2009 licensing cycle. The course schedule will be distributed to all brokerages around the end of August. The first courses will be run in September. There will not be any courses, for this licensing cycle, offered in July-August, as there has been little interest in summer courses in the past.

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**Broker / Manager – Please share this information with your salespeople.**

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# NOVA SCOTIA REAL ESTATE COMMISSION

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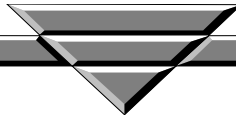
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May 23, 2008

## Commission News

**Licence Renewals** – The Commission sent out the annual renewal forms and invoices last week. If you have not received them, please contact the Commission office.

They must be completed and returned to the Commission no later than June 16, 2008, to avoid any late fees or penalties. Please ensure both sides of the renewal forms are completed and signed off. It is not necessary to complete any of the personal contact information on the first page unless there are changes or updates. The fees for a brokerage must be paid in one payment by the brokerage. Individual payments from Industry Members are not permissible.

**Mandatory Forms** – There have been a large number of forms revised or completely redone over the last two years. Recently new versions of all the Agreements of Purchase and Sale were made available. The NSAR had published a cutoff date for the use of older forms. The Commission has now put a cutoff date in place for specific forms. After June 30, 2008, Industry Members will no longer be able to use any of the old forms that refer to **Limited Dual Agency**. Only the new forms that refer to **Transaction Brokerage** will be acceptable. Also, after June 30, 2008, only the new versions of Agreements of Purchase and Sale will be acceptable. The forms that will be acceptable are:

- Form 200 - Seller Brokerage Agreement
- Form 201 - Seller Designated Brokerage Agreement
- Form 300 - Buyer Brokerage Agreement
- Form 301 - Buyer Designated Brokerage Agreement
- Form 400 - Agreement of Purchase and Sale Part I: Common Clauses
- Form 401 - Agreement of Purchase and Sale Part II: Residential Schedule
- Form 402 - Agreement of Purchase and Sale Part II: Resale Condominium Schedule
- Form 403 - Agreement of Purchase and Sale for Turn Key New Construction
- Form 404 - Agreement of Purchase and Sale Part II: Vacant Land – Urban Schedule
- Form 405 - Agreement of Purchase and Sale Part II: Vacant Land – Rural Schedule
- Form 406 - Agreement of Purchase and Sale Part II: Mini/Mobile Home Schedule
- Form 407 - Agreement of Purchase and Sale Part II: Residential Income Properties Schedule
- Form 411 - Transaction Brokerage Agreement – Common Law
- Form 412 - Transaction Brokerage Agreement – Designated Agency

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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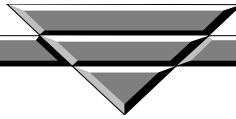
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May 14, 2008

## Commission News

**New Chair & Vice Chair of Commission** – Every year, at the first Commission meeting after the Commission's Annual General Meeting, the Commissioners elect the Chair and Vice Chair. Mary MacDonald, a Broker from Liverpool who is serving her fourth year on the Commission was elected Chair. Elizabeth Irwin, a salesperson from Halifax who is serving her second year as a Commissioner was elected as the Commission's Vice Chair. These positions are for a one year period.

**Interested on Serving on a Commission Committee?** – Any Industry Members that have an interest in serving on any of the Commission's committees should send in an email or fax to the Registrar indicating their interest by May 22<sup>nd</sup>. The new Committees will be struck in June.

**Licence Renewals** – The Commission is sending out the annual renewal forms and invoices this week. They must be completed and returned to the Commission no later than June 16, 2008, to avoid any late fees or penalties. Please ensure both sides of the renewal forms are completed and signed off. It is not necessary to complete any of the personal contact information on the first page unless there are changes or updates. The fees for a brokerage must be paid in one payment by the brokerage. Individual payments from Industry Members is not permissible.

**Inappropriate Comments** – The Commission sometimes receives complaints from Industry Members regarding negative or derogatory comments made to members of the public about other Industry Members or brokerages. This is entirely inappropriate and unprofessional. This typically happens when an Industry Member is in competition with another Industry Member for a consumer's business. Should a member of the public come forward with evidence of such comments, the Commission will take the matter very seriously. Article 26 of By-Law 702 states:

*The Industry Member shall never publicly discredit a competitor. If the Industry Member's opinion is sought regarding the specific transaction, it should be rendered with strict professional integrity and courtesy.*

Industry Members should be skilled in promoting and explaining their own services and not commenting on what another Industry Member or brokerage does or does not do.

**Continuing Professional Education** – Time is running out for Industry Members to complete this year's course requirement. All Salespeople must complete the one-day version, and Brokers, Managing Associate Brokers and Associate Brokers must complete the day and a half version of the **Designated Agency and Transaction Brokerage** course by June 30, 2008. Failure to meet this requirement will result in the Industry Member's licence not being renewed until the course requirement has been met. Industry Members are advised to register for the course with NSAR as soon as possible in order to avoid problems with availability of course dates that work with your schedule.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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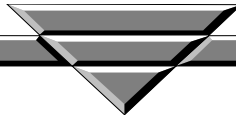
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March 28, 2008

## Commission News

**Election of Commissioner** – An election was held at the Commission's Annual General Meeting on March 20<sup>th</sup> and Ron Stuart, a Salesperson with Harbourside Realty in Halifax, was elected on the first ballot. His three-year term starts May 1, 2008.

**Re-appointment of a Commissioner** – Mary MacDonald, the Broker for Walt MacDonald Real Estate in Liverpool, who has served on the Commission for the past three years as an NSAR appointment, was re-appointed by NSAR for a second three-year term commencing May 1, 2008.

**An Introduction to Property Law in the Maritimes** – The Nova Scotia Community College is offering this course in HRM in late April and early June. It is an excellent course and gives participants a broad understanding of property law. Its format is three full days over three weeks followed by an exam. For further information contact the NSCC at [bea.sturney@nsc.ca](mailto:bea.sturney@nsc.ca)

**Release of Deposits** – The Commission recently amended its By-Law to provide a process to simplify the release of a deposit to a seller, much the same as had been done with buyers previously. The document can be used in a similar way, when the seller is claiming the deposit and the buyer has not completed the Agreement as per the terms and is being non-responsive. The full explanation and the three related forms can be found on the Commission's website at:

<http://www.nsrec.ns.ca/publications/details.cfm?fuseaction=displayDetails&id=228>

**Continuing Professional Education** – Time is running out for Industry Members to complete this year's course requirement. All Salespeople must complete the one-day version, and Brokers, Managing Associate Brokers and Associate Brokers must complete the day and a half version of the *Designated Agency and Transaction Brokerage* course by June 30, 2008. Failure to meet this requirement will result in the Industry Member's licence not being renewed until the course requirement has been met. Industry Members are advised to register for the course with NSAR as soon as possible in order to avoid problems with availability of course dates that work with your schedule.

**Brokers/Managers – Please share this information with your Salespeople**



# NOVA SCOTIA REAL ESTATE COMMISSION

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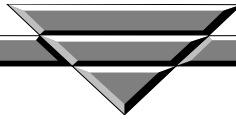
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February 27, 2008

## Commission News

**Annual Meeting of the Commission** – The Annual Meeting will be held on **Thursday, March 20<sup>th</sup>, 2008, at 1:00 PM**. The meeting will be held in the auditorium at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 PM. A light lunch will be provided at 12 noon for those people attending the NSAR AGM in the morning and staying for the Commission AGM.

**Nominations for Election of a Commissioner** – There are four nominations for the election of a Commissioner, which will take place at the Annual General Meeting on March 20<sup>th</sup>. The nominations are:

Marta Anderson	Del Mar Realty	Canso	Broker
Ron Basque	RE/MAX Nova	Dartmouth	Broker
Gene Lye	Coldwell Banker Supercity	Halifax	Associate Broker
Ron Stuart	Harbourside Realty	Halifax	Salesperson

**Agency Fundamentals Course** – This was the mandatory course for the 2006-2007 licensing cycle. There are some Industry Members that had not completed the course and were not licensed when this course was offered. They are required to complete this course at its next offering, which is June 19-20, 2008. Failure to complete the course will result in a refusal to renew their licence effective July 1, 2008. Industry Members requiring this course must register through NSAR.

**New Forms Information Session** – Similar to what is covered in the above item, there are a number of Industry Members that are required to complete the New Forms Information Session. The next offering is May 28, 2008, from 9:00 AM to 1:00 PM. For information or to register, contact Pam Crane at the Commission.

**Use of Cellular Phones While Driving** – The Nova Scotia Provincial legislature is considering legislation that will ban the use of handheld cellular phones by drivers of moving vehicles. All Industry Members should keep informed as this legislation moves forward. Industry Members that are not currently using hands free technology in their cars may want to consider obtaining it sooner rather than later so that you are not caught off guard.

**Property Online** – The Commission has received complaints from members of the public who have received promotional or marketing materials that were sent as addressed mail. It has turned out that the names and addresses were obtained through *Property Online*, which is contrary to the terms of usage for *Property Online*. The **Restriction On Use** states “**The user is strictly prohibited from using the land related information in *Property Online* to identify and /or solicit individuals or organizations for purposes not related to property transactions...**” Continued misuse by Industry Members could result in loss of access to *Property Online*.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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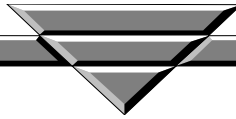
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1-800-390-1016



February 12, 2008

## Commission News

**Annual Meeting of the Commission** – The Annual Meeting will be held on **Thursday, March 20<sup>th</sup>, 2008, at 1:00 PM**. The meeting will be held in the auditorium at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 PM. A light lunch will be provided at 12 noon for those people attending the NSAR AGM in the morning and staying for the Commission AGM.

**Nominations for Election of a Commissioner** – There will be an election for a Commissioner held at the Commission's Annual Meeting on March 20<sup>th</sup>. Information and nomination forms were sent out two weeks ago. Nominations must be received by the Commission office no later than Wednesday, February 20<sup>th</sup>, 2008, at 4:30 PM. If you are interested in putting forward a nomination, but require more information, then please call the Registrar.

**Annual Report and By-Law Update** – Both of these documents will be distributed the first week of March. Brokerages should ensure the By-Law updates are inserted into their Brokerage Manual so that the most up-to-date information is referenced.

**Change of email address** – All Industry Members are reminded that they must notify the Commission of any changes to their address, including their email address. Every time a Commission News Bulletin is sent out by email to all Industry Members, at least 40 of them are undelivered due to incorrect email addresses. Staff has to then contact each of those Industry Members to get the correct email address.

As a professional, should you not ensure people and businesses you do business with have your correct email? Also, each time we send out an email, 5-10 addresses return a message saying that your mailbox is full. How does that look to clients, potential customers and other business people you work with?

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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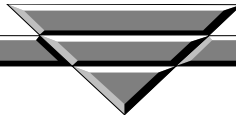
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January 28, 2008

## Commission News

**Annual Meeting of the Commission** – The Annual Meeting will be held on **Thursday, March 20<sup>th</sup>, 2008, at 1:00 PM**. The meeting will be held in the auditorium of the real estate building at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 PM. A light lunch will be provided at 12 noon for those people attending the NSAR AGM in the morning and staying for the Commission AGM.

**Election of a Commissioner** – There will be an election for a Commissioner held at the Commission's Annual Meeting on March 20<sup>th</sup>. Information and nomination forms are attached. Nominations must be received no later than Wednesday, February 20<sup>th</sup>, 2008, at 4:30 PM. If you are interested in putting forward a nomination, but require more information, then please call the Registrar.

**CPE Courses** – All Industry Members are reminded that annual CPE requirements must be met by June 30<sup>th</sup>, 2008. The consequence of not completing your courses is that your licence will not be renewed July 1<sup>st</sup> and you will not be able to trade in real estate. You will also be required to stop all advertising,

remove For Sale signs and shut down websites. With less than six months left, it is strongly recommended that you do not leave this to the last minute. Take the time to get your courses in the winter while business is reasonably quiet. Don't wait until May-June when you are very busy and the course selection is limited.



All Salesperson Industry Members must complete the one-day *Designated Agency and Transaction Brokerage* course. Brokers, Managing Associate Brokers and Associate Brokers must complete the one and a half day version.

An elective may or may not be required for this licensing cycle. Most Industry Members will not need an elective, but if you fall under any of the following categories then you should contact the Commission office to confirm your status:

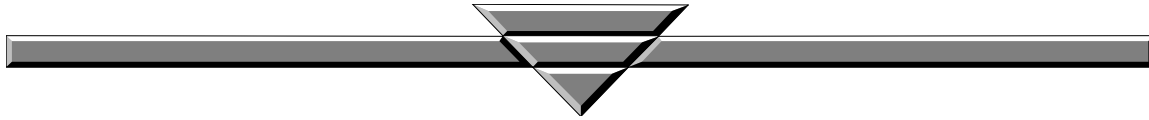
- if you were unlicensed for a period of time between July 1, 2005, and July 1, 2007;
- if you were licensed for the first time between June 15 - 30, 2007; or
- if you have never completed the two day *Agency Fundamentals* course.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

7 Scarfe Court  
Dartmouth, N.S.  
B3B 1W4

Phone # 468-3511 or 1-800-390-1015  
Fax # 468-1016 or 1-800-390-1016



## **-Request for Nominations-**

The annual election for an Industry Member to serve on the Nova Scotia Real Estate Commission will take place on Thursday, March 20<sup>th</sup>, 2008, 1:00 PM, in the auditorium of the real estate building at 7 Scarfe Court, Burnside.

Any Industry Members interested in putting their name forward must complete the attached form and have it signed by ten Industry Members in order for their name to be placed on the Nomination List.

**Nominations must be received by the Commission office  
no later than Wednesday, February 20<sup>th</sup>, 2008, at 4:30 PM.**

The election will be for one position on the Commission. The term of the position will be for three years commencing May 1<sup>st</sup>, 2008. The first person to receive 50% plus 1 of the ballots cast will be declared elected.

All Industry Members in good standing are eligible to let their name stand. Those nominated must not have been found guilty of any offence by the Commission, or a Board/Association during the past two years for violation of the Code of Conduct or Professional Standards.

Persons interested in serving should be aware of both the seriousness of this position and the time commitment involved. The Industry Member elected to the Commission will have to attend five Commission meetings per year and serve on one or more committees of the Commission.

Please feel free to call the Registrar should you have any questions or need more information before you put your name forward.

# -Nomination Form-

## for the NOVA SCOTIA REAL ESTATE COMMISSION



I, \_\_\_\_\_, who is licensed as a \_\_\_\_\_ with the \_\_\_\_\_ Brokerage in the city/town of \_\_\_\_\_ consent to being nominated for election as a Commissioner of the Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

The Industry Members signed below nominate the above Industry Member for election to the Nova Scotia Real Estate Commission (*Must be signed by ten current Industry Members*):

Name (Please Print)	Signature	Brokerage
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

**-Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission-  
Nominations must be received by the Commission no later than 4:30 PM, February 20<sup>th</sup>, 2008.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

Fax # 902-468-1016

#111

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016

December 19, 2007

## Commission News

**Commission Office Holiday Hours** - The Commission office will be closed December 24<sup>th</sup>, 25<sup>th</sup>, and 26<sup>th</sup> and December 31 and January 1<sup>st</sup>. The Commission offices will be open Thursday, December 27<sup>th</sup> and Friday the 28<sup>th</sup>. Normal office hours will return January 2<sup>nd</sup>.



**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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November 26, 2007

## Commission News

**Information Sessions** – The balance of a series of information sessions will be held this week. The Registrar will give a brief update on several issues and the balance of the information session will be devoted to answering questions and receiving feedback on any issues of interest to Industry Members, but in particular on the new forms introduced last winter and the implementation of the option of Designated Agency and Transaction Brokerage. This will be a good opportunity to ask questions and to provide feedback to the Commission.

The schedule for the remaining sessions is as follows:

<b>Burnside</b>	Tuesday, November 27	1:00 – 2:30 PM	NSAR Auditorium
<b>Bridgewater</b>	Wednesday, November 28	9:30 – 11:00 AM	Wandlyn Inn
<b>Yarmouth</b>	Thursday, November 29	9:30 – 11:00 AM	Rodd Hotel

**Email Identification** – Industry Members are reminded that, as per Policies and Procedures, emails must have proper identification of your name, type of licence and brokerage name at either the top or bottom of the page. This can be inserted into your emails manually by typing it in or can be done automatically by your email program, through a function normally called “signature”. An example would be :

John Smith  
Salesperson  
XYZ Realty

**Internet Advertising - Facebook** – It has recently come to the Commission’s attention that large numbers of Industry Members are advertising property for sale on the Facebook website without identifying that they are licensed and what brokerage they work for. All advertising must include identifying your licence as Salesperson or Broker/Associate Broker and include the name of your brokerage. Where an Industry Member has a website with more than one webpage, they must identify themselves and the brokerage on every webpage. The consumer must always be aware that they are dealing with a licensed person and the brokerage where that person is licensed.

Anyone with internet advertising that does not meet these requirements must immediately take action to make the necessary corrections. Failure to do so could result in disciplinary action.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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October 26, 2007

## Commission News

**Information Sessions** – A series of information sessions will be held throughout the province the end of this month and in November. The Registrar will give a brief update on a few issues and the balance of the information session will be devoted to answering questions and receiving feedback on any issues of interest to Industry Members, but in particular on the new forms introduced last winter and the implementation of the option of Designated Agency and Transaction Brokerage. This will be a good opportunity to ask questions and to provide feedback to the Commission.

The schedule for the sessions is as follows:

<b>Amherst</b>	Tuesday, October 30	9:30 – 11:00 AM	Super 8 Motels
<b>Truro</b>	Tuesday, October 30	1:00 – 2:30 PM	Glengarry Inn
<b>New Glasgow</b>	Thursday, November 1	9:30 – 11:00 AM	Museum of Industry
<b>Antigonish</b>	Thursday, November 1	1:00 – 2:30 PM	Maritime Inn
<b>Sydney</b>	Friday, November 2	9:30 – 11:00 AM	Cambridge Suites
<b>Coldbrook</b>	Thursday, November 8	9:30 – 11:00 AM	Wandlyn Inn
<b>Burnside</b>	Tuesday, November 27	1:00 – 2:30 PM	NSAR Auditorium
<b>Bridgewater</b>	Wednesday, November 28	9:30 – 11:00 AM	Wandlyn Inn
<b>Yarmouth</b>	Thursday, November 29	9:30 – 11:00 AM	Rodd Hotel

**Internet Advertising - Facebook** – It has recently come to the Commission's attention that large numbers of Industry Members are advertising property for sale on the Facebook website without identifying that they are licensed and what brokerage they work for. All advertising must include identifying your licence as Salesperson or Broker/Associate Broker and include the name of your brokerage. Where an Industry Member has a website with more than one webpage, they must identify themselves and the brokerage on every webpage. The consumer must always be aware that they are dealing with a licensed person and the brokerage where that person is licensed.

Anyone with internet advertising that does not meet these requirements must immediately take action to make the necessary corrections. Failure to do so could result in disciplinary action.

**Broker / Manager – Please share this information with your salespeople.**



# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

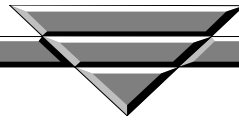
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October 15, 2007

## Commission News

**Information Sessions** – A series of information sessions will be held throughout the province the end of this month and in November. The Registrar will give a brief update on a few issues and the balance of the information session will be devoted to answering questions and receiving feedback on any issues of interest to Industry Members, but in particular on the new forms introduced last winter and the implementation of the option of Designated Agency and Transaction Brokerage. This will be a good opportunity to ask questions and to provide feedback to the Commission.

The schedule for the sessions is as follows:

<b>Amherst</b>	Tuesday, October 30	9:30 – 11:00 AM	Super 8 Motels
<b>Truro</b>	Tuesday, October 30	1:00 – 2:30 PM	Glengarry Inn
<b>New Glasgow</b>	Thursday, November 1	9:30 – 11:00 AM	Museum of Industry
<b>Antigonish</b>	Thursday, November 1	1:00 – 2:30 PM	Maritime Inn
<b>Sydney</b>	Friday, November 2	9:30 – 11:00 AM	Cambridge Suites
<b>Coldbrook</b>	Thursday, November 8	9:30 – 11:00 AM	Wandlyn Inn
<b>Burnside</b>	Tuesday, November 27	1:00 – 2:30 PM	NSAR Auditorium
<b>Bridgewater</b>	Wednesday, November 28	9:30 – 11:00 AM	Wandlyn Inn
<b>Yarmouth</b>	Thursday, November 29	9:30 – 11:00 AM	Rodd Hotel

**Caution Regarding Wells** – Wells are one of the most frequent reasons for calls to the Commission. Industry Members are advised to recommend the use of well professionals whenever there are well issues beyond standard water tests. Treating wells or opening up sealed wells can have serious implications and is best left to someone who has the qualifications.

**Cheque Scams** – The Commission continues to get calls regarding unusual circumstances involving cheques for deposits. Industry Members should always ascertain they are getting a cheque from a person they can confirm identity for. Anytime a buyer comes out of nowhere, with no previous contact, you should be extra vigilant. Should a buyer provide a deposit cheque for more than the deposit amount and want you to rebate the balance back to them, it is most likely a scam and the cheque they provided is bogus. Brokerages should also ensure that deposit funds are not returned to a buyer from the brokerage trust account until the original cheque from the buyer clears your bank. Lastly, brokerages should use caution when dealing with money orders and apply the same cautions as just mentioned before refunding any deposits.

**Broker / Manager – Please share this information with your salespeople.**

October 15, 2007

## **Commission News**

**Incentives, Inducements and Rebates**– All Industry Members should make themselves familiar with By-Law 716, which covers all three of these issues. You are reminded that incentives can only be offered as a brokerage program and not simply by individual Industry Members. Rebates of commissions are permitted, but only to someone who is a party to the transaction. The Commission spends an inordinate amount of time following up on improper incentives and rebate programs. Brokerages should review this section at an office meeting to ensure it is clearly understood.

The wording of By-Law 716 is as follows:

- (a) A gift cannot be money or a sharing of commissions or remuneration.
- (b) An incentive or an inducement may be in the form of a commission rebate, provided the rebate is being made to a party to the transaction.
- (c) A Broker, Managing Associate Broker, Associate Broker or Salesperson must not, directly or indirectly, advertise, communicate or offer to any person an incentive except an incentive that is provided by and on behalf of the Brokerage with which they are licensed.
- (d) An Associate Broker and Salesperson must not, directly or indirectly, provide an inducement unless the details of the inducement are provided in writing and the Broker or Managing Associate Broker has provided written approval.
- (e) A Brokerage must not pay a commission or other remuneration, directly or indirectly in connection with a trade or dealing, to a Brokerage that is licensed under these rules or under similar legislation in a jurisdiction outside of Nova Scotia when the Brokerage has knowledge that the commission or remuneration will be paid to, or be shared with, an unlicensed person.
- (f) An Industry Member may give a gift to a customer, a client or another person provided the gift is not a referral fee.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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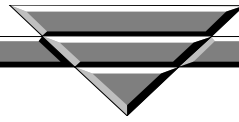
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September 7, 2007

## Commission News

**Broker Mandatory Course 2007/ 2008** – As a result of the introduction of Designated Agency in Nova Scotia, NSAR has scheduled four broker version mandatory courses for September, called *Understanding Designated Agency and Transaction Brokerage*. All Brokers, Managing Associate Brokers and Associate Brokers are strongly advised to register and take this course as soon as possible so that you are up-to-speed on Designated Agency before any brokerages make the decision to change over to this model of agency relationships. The first four offerings of this course will be in Burnside on the following dates: September 10-11, 12-13, 19-20, and 26-27. Please register for one of these courses through NSAR.

**New Broker Licensing Course** – An entirely new Broker Licensing Course will be in place starting this November. It replaces the previous six-day classroom course. The new course consists of a 30 hour online component, which is a prerequisite that must be completed prior to taking the ten day classroom portion. The online portion prepares course candidates for the classroom portion.

This course has been several years in development and will be one of the most advanced Broker Licensing Courses in Canada and the US. In addition to the online component, the course includes a 478 page course book and a 194 page Reference Manual. The main topics are:

- Planning for a Real Estate Brokerage
- Establishing the Brokerage
- Financial and Record Administration
- Marketing and Business Promotion
- Human Resource Management
- Risk Management

The first offering of this course will be November 5-19, 2007. Any Industry Member considering taking this course must register well in advance in order to allow time to complete the online component before the course starts on November 5<sup>th</sup>.

**Well and Septic** – The Commission continues to receive numerous complaints about problems that buyers have with either the well or septic system of a property they recently purchased. It is very important that Industry Members advise buyers to make the appropriate inspections and tests. In the last year the Commission has dealt with two well situations that have resulted in costs in excess of \$50,000 each when new wells, legal fees and miscellaneous costs are added up.

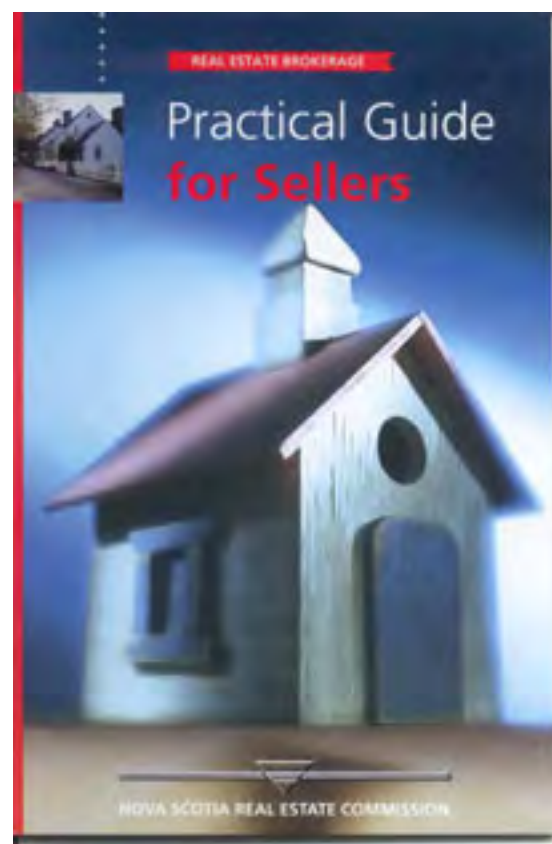
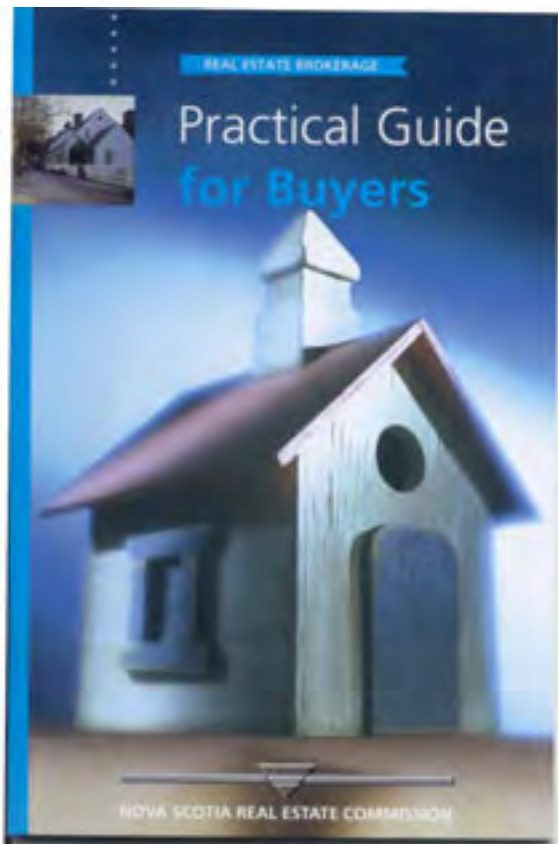
Agreements regarding properties on wells should always include a proper clause to allow the buyer to check both the quality and quantity of water. Industry Members should be especially careful of making representations about either water quality or quantity that they cannot personally validate. Septic systems should also be discussed with buyers and an appropriate clause inserted to protect the buyer, particularly when it is an older property or there is no information being provided by and warranted by the seller.

**Broker / Manager – Please share this information with your salespeople.**

## Buyer and Seller Booklets

The Commission has just received delivery of the reprint of the popular Buyer and Seller Booklets shown below. The booklets, originally published in 2000, have seen significant revisions and updating. They are available for purchase by Industry Members, at a cost of \$1.00 each, through the Commission.

These booklets are a very professional consumer information piece that you can provide to either buyers or sellers. They are designed with a business card placement space inside the front cover for you to personalize.



**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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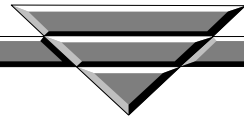
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August 7, 2007

## Commission News

**Feedback Wanted!** – Attached to this bulletin is an overview of the Long Range Planning Session to be held by the Commissioners in September. Industry Members are being asked for their feedback. Please respond with any issues that you feel would be appropriate for the Commission to consider in its long range planning. Please respond by Wednesday, August 22<sup>nd</sup>.

**New Licensing Cycle** – July 1, 2007, was the beginning of the current licensing cycle, which runs through to June 30, 2008. The Commission has specified that all Salespeople must complete a one-day *Understanding Designated Agency and Transaction Brokerage* mandatory course for 2007/2008. Brokers, Managing Associate Brokers and Associate Brokers will have to complete a one and a half day *Understanding Designated Agency and Transaction Brokerage* mandatory course for this cycle.

The mandatory courses will be available starting the end of September. There will be three courses run for Brokers at the start. All Industry Members holding a Broker or Managing Associate Broker licence are strongly encouraged to take one of these first offerings so that they are fully informed as to what is happening with Designated Agency.

NSAR is currently preparing the courses for the 2007-2008 licensing cycle. The course schedule will be distributed to all brokerages around the end of August. There will be elective courses available, both scheduled and on demand, in addition to the mandatory courses. The first courses will be run in September. There will not be any courses, for this licensing cycle, offered in July-August, as there has been little interest in summer courses in the past.

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- Financial and Record Administration
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- Human Resource Management
- Risk Management

The first offering of this course will be November 5-19, 2007. Any Industry Member considering taking this course must register well in advance in order to allow time to complete the online component before the course starts on November 5<sup>th</sup>.

**Broker / Manager – Please share this information with your salespeople.**

# Nova Scotia Real Estate Commission Strategic Planning Process

## **Industry Member Feedback Form**

In September 2007, the Nova Scotia Real Estate Commission Board of Directors will meet to develop a Strategic Plan. The purpose of this process is to identify 3 to 5 critical priorities for the NSREC if it, within its mandate, is to meet the current and future challenges facing the real estate industry, as well as continue to grow as an organization.

As part of the scanning phase of this process, the Board of Directors is interested in hearing the opinions of Industry Members as to what they feel the priorities of the Commission could or should be over the next 5 years. We are providing several methods for you to provide this feedback. An e-mail address has been specifically set up for this purpose. You may also fax a response to the NSREC office or even mail in a submission. The responses will be compiled by an independent consultant and your feedback will be presented to the Board as part of the planning process without identifying the authors.

Remembering that the purpose of the Commission is to protect the public and considering what you believe the current and future challenges of the real estate industry are, what do you believe the priorities of the Commission should be over the next five years?

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Remember the options for submitting your feedback are:

- (1) Send an e-mail to:     feedback@nsrec.ns.ca
- (2) Fax this form to:     468-1016 or 1-800-390-1016
- (3) Mail this form to:    NSREC, 7 Scarfe Court, Suite 200,  
                                  Dartmouth, Nova Scotia, B3B 1W4

**All feedback must be received on or before Wednesday August 22, 2007.**

Thank you for taking the time to contribute to the future of the Nova Scotia Real Estate Commission. Your input will be a critical component of the Strategic Planning process. If you have any questions about the process please do not hesitate to contact Doug Dixon, NSREC Registrar.

# NOVA SCOTIA REAL ESTATE COMMISSION

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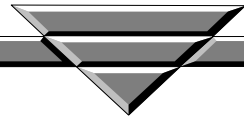
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July 10, 2007

## Commission News

**New Licensing Cycle** – July 1, 2007, was the beginning of the current licensing cycle, which runs through to June 30, 2008. The Commission has specified that all Salespeople must complete a one-day *Understanding Designated Agency and Transaction Brokerage* mandatory course for 2007/2008. Brokers, Managing Associate Brokers and Associate Brokers will have to complete a one and a half day *Understanding Designated Agency and Transaction Brokerage* mandatory course for this cycle.

Salespeople that completed the New Forms Information Session last winter **will not** be required to complete an elective in 2007/2008, as a credit for that session was carried forward to this licensing cycle. New Industry Members that completed the licensing course in January 2007 or later **will** have to complete an elective in 2007/2008. Brokers, Managing Associate Brokers and Associate Brokers **will not** require an elective in 2007/2008. Even if you are not required to complete an elective you are encouraged to take any electives that may be of interest and helpful to you in your business.

NSAR is currently preparing the courses for the 2007-2008 licensing cycle. The course schedule will be distributed to all brokerages around the end of August. There will be elective courses available, both scheduled and on demand, in addition to the mandatory courses. The first courses will be run in September. There will not be any courses, for this licensing cycle, offered in July-August, as there has been little interest in summer courses in the past.

**Broker / Manager – Please share this information with your salespeople.**

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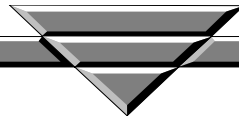
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June 29, 2007

## Commission News

**End of 06-07 Licensing Cycle** – June 30, 2007 marks the end of this licensing cycle. All brokerages were required to have their licence renewals in by June 15<sup>th</sup>. In addition, all Industry Members were required to have their CPE courses completed by June 30<sup>th</sup>. Attached is a list of brokerages and individuals whose licences have not been renewed. This lapse in licensing means that they are not permitted to trade in real estate until the information/fees are provided or courses completed.

All other Industry Members that have complied with renewal requirements have been renewed. The actual licences and wallet cards are expected to be distributed to brokerages by July 15<sup>th</sup>. The status of whether or not a person or brokerage is licensed is determined by the Registrar of the Commission and not by holding an actual paper licence.

**New Licensing Cycle** – July 1<sup>st</sup> will mark the beginning of the next licensing cycle, which runs through to June 30, 2008. The Commission has specified that all Salespeople must complete a one-day Designated Agency mandatory course for the next cycle. Brokers, Managing Associate Brokers and Associate Brokers will have to complete a one and a half day Designated Agency mandatory course for the next cycle.

NSAR is currently preparing the courses for the 2007-2008 licensing cycle. The course schedule will be distributed to all brokerages around the end of August. There will be elective courses available, on demand, in addition to the mandatory courses. The first courses will be run in September. There will not be any courses, for this licensing cycle, offered in July-August, as there has been little interest in summer courses in the past.

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**Broker / Manager – Please share this information with your salespeople.**

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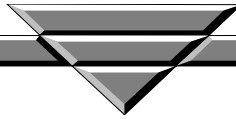
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June 1, 2007

## Commission News

**CPE Reminder** – Time is running out for Industry Members to complete the two day Agency Fundamentals Course, which is the mandatory course for the 2006-2007 licensing cycle. All Industry Members must complete the course by June 30<sup>th</sup>, 2007. Failure to complete the course will result in their licence not being renewed July 1<sup>st</sup>, 2007.

There are about 325 Industry Members currently registered to take the course this month. Please ensure that you complete the course if you are already registered. There are approximately 125 that have not yet completed or registered for the course. There are only about 15 spaces left in the scheduled courses. NSAR will be adding two additional courses and the course fee will be double the original fee for anyone that has left it to the last minute and caused the need for extra courses to be added. Any Industry Members that have not registered for the course should contact NSAR as soon as possible to confirm a course date.

**Annual Licence Renewals** – The Commission sent out the licence renewal documentation the week of May 15<sup>th</sup>, 2007. Brokerages will be required to complete the necessary paperwork and return the renewal information, along with the appropriate fees, by June 15<sup>th</sup>, 2007. Failure to meet the June 15<sup>th</sup> deadline will result in administrative fees being assessed and could result in significantly higher renewal fees for late licence renewal applications.

Many brokerages have already submitted their renewals and some of those have had to be returned to the brokerage for being incomplete. Brokers are reminded to follow the instructions provided with the renewal and send it in complete. Failure to submit a complete renewal will result in it being returned.

Shown below are a list of common problems with licence renewals:

- Cheque made out to NSAR instead of the Commission
- Individual salespeople trying to pay renewal fees instead one cheque from the brokerage
- Licence Renewal Forms not included with the invoice and payment
- Individuals losing their form and requesting a replacement form
- Forms not completed properly:
  - Information missing
  - Back page not filled out and signed by the renewal applicant
  - Signature not witnessed
  - Correction section of the form filled out completely when there were no corrections

**Brokers/Managers – Please share this information with your Salespeople**

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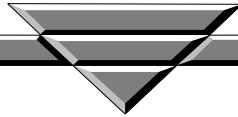
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April 5, 2007

## Commission News

**Congratulations to New Commissioners** – The annual election was held at the Commission's Annual General Meeting on March 22<sup>nd</sup>. Ernie Buote, Associate Broker with Domus Realty of Halifax, was elected to a three year term. Neil Black, Commission Chair, also announced at the meeting that Elizabeth Irwin, Associate Broker with Royal LePage of Bedford, was appointed by NSAR for a three year term. Both terms will start effective May 1<sup>st</sup>, 2007.

The Commission wishes to recognize and thank Valerie Folk and Charles Pace, both outgoing Commissioners, for their work as Commissioners.

The Provincial Government will be naming a Public Appointment, to replace Gus Wedderburn, who passed away in February. The appointment is not expected until late May or June and it will be a three year term effective the date of the appointment.

**Commission Office Closed** - The Commission Office will be closed Good Friday and Easter Monday, reopening Tuesday, April 10<sup>th</sup>.

**CPE Reminder** – Time is running out for Industry Members to complete the two day Agency Fundamentals Course, which is the mandatory course for the 2006-2007 licensing cycle. All Industry Members must complete the course by June 30<sup>th</sup>, 2007. Failing to complete the course will result in their licence not being renewed July 1<sup>st</sup>, 2007. Any Industry Members that have not registered for the course should contact NSAR as soon as possible to confirm a course date.

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**Brokers/Managers – Please share this information with your Salespeople**

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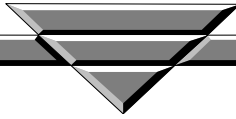
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March 12, 2007

## Commission News

**Seabreeze GMAC Real Estate – Cancellation of Brokerage Licence** – The licence for Seabreeze GMAC Real Estate, on the South Shore, is cancelled effective today. The brokerage is no longer able to trade in real estate. Any Seller or Buyer Brokerage Agreements that were in place are no longer in effect. Sellers that were listed with Seabreeze GMAC Real Estate may now list with another brokerage.

**New Forms Information Session** - The next offering of this information session is scheduled for Thursday, March 29<sup>th</sup> from 9:00 to 1:30, in Classroom A. Contact the Commission office to register.

**Annual General Meeting Notice** – The Commission's Annual General Meeting will be held on Thursday, March 22<sup>nd</sup> 2007, at 1:00 PM in the Auditorium at 7 Scarfe Court, Burnside. A light lunch will be provided between 12-1:00 PM for those Industry Members staying after the NSAR AGM that morning.

**Annual Reports** – The Annual Reports for 2006 have been distributed to all brokerage offices. Proxy forms for the election were included with the Annual Reports. Please contact the Commission office if you have not yet received your copies.

**Nominations for Commissioner** – The Commission received the nominations, shown below, for the election to be held at the Commission's Annual General Meeting. This is the largest number of nominations since the very first Annual Meeting in 1997 when there were three positions open for election. This year there is only one position open. It is important that all Industry Members attend or pass on their proxy so that your voice is heard.

The nominations are:

Roger Burns	Broker	Roger Burns Real Estate	Sydney
Ernie Buote	Associate Broker	Domus Realty	Halifax
Peter Fraser	Salesperson	RE/MAX Newstyle	New Glasgow
Lynn Hoffmann	Salesperson	C21 Annapolis Valley	Kentville
Albert Scott	Salesperson	Exit Realty Optimum	Dartmouth

\* Ed Vigneau, of Century 21 Classic Realty, has withdrawn his nomination for personal reasons.

**Brokers/Managers – Please share this information with your Salespeople**

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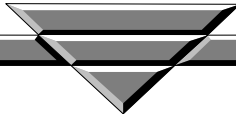
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February 27, 2007

## Commission News

**Commissioner Gus Wedderburn Passes** – Gus, a public appointment as a Commissioner on the Board of Directors of the NSREC, passed away February 24<sup>th</sup>. He was appointed to the Commission in January of 2006 and served on the Licensing Committee the last two years. Gus accomplished much during his lifetime, including a teaching career, followed by becoming a lawyer. He was founder of the Nova Scotia Human Rights Commission, founder and President of the Black Education Association and founding Director of the Black Cultural Society of Nova Scotia. Gus will be missed.

Visiting hours are 2-4 and 7-9 this Friday at the Snow Funeral Home, 2666 Windsor Street, Halifax. The funeral is at 10 AM, Saturday March 3rd, All Saints Cathedral on Tower Road.

**New Forms Information Session** - The next offering of this information session is scheduled for Thursday, March 29<sup>th</sup> from 9:00 to 1:30, in Classroom A. Contact the Commission office to register.

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The nominations are:

Roger Burns	Broker	Roger Burns Real Estate	Sydney
Ernie Buote	Associate Broker	Domus Realty	Halifax
Peter Fraser	Salesperson	RE/MAX Newstyle	New Glasgow
Lynn Hoffmann	Salesperson	C21 Annapolis Valley	Kentville
Albert Scott	Salesperson	Exit Realty Optimum	Dartmouth
Ed Vigneau	Associate Broker	C21 Classic Realty	Dartmouth

**Brokers/Managers – Please share this information with your Salespeople**

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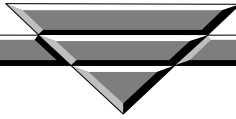
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February 15, 2007

## Commission News

### Licence Reinstatements

The article has been removed per Bylaw 839.

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**Brokers/Managers – Please share this information with your Salespeople**

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## **Commission News**

**Release of Trust Deposits** – The new release of trust monies rules that were sent out last week have raised a few questions that require clarification.

In instances where a brokerage holds trust monies on behalf of a transaction that has collapsed, they must do one of the following in order to comply with the Commission's requirements:

1. If there is no dispute, have both parties sign off on the release of the trust monies.
2. If there is no legal dispute and the buyer has terminated the transaction, as per one of the conditions precedent and within the time frames called for in the agreement, and the seller is just being unreasonable, then the broker can send out the notice to the seller, as per the information recently provided in the By-Law update.
3. If there is clearly a legal issue or dispute, then the trust monies must remain in the trust account until the parties have signed off or there is a court order saying what was to happen with the monies.
4. If at any time a broker is unsure of or uncomfortable with what to do, leave the trust monies in the trust account until there is clear direction by the parties.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

Fax # 902-468-1016

#97

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016

January 3, 2007

## Commission News

**Annual Meeting of the Commission** – The Annual Meeting will be held on Thursday, March 22<sup>nd</sup>, 2007, at 1:00 PM. The meeting will be held in the auditorium of the real estate building at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 PM.

**Election of a Commissioner** – There will be an election for a Commissioner held at the Commission's Annual Meeting on March 22<sup>nd</sup>. Information and nomination forms are attached. Nominations must be received no later than Wednesday, February 21<sup>st</sup>, 2007, at 4:30 PM. If you are interested in putting forward a nomination, but require more information, then please call the Registrar.

**Brokerage Manual Update and Commission Newsletter** – An update for Brokerage Manuals will be sent out to all brokerages in a couple of weeks. It is very important that your brokerage manual is kept up-to-date and current. You do not want to be basing decisions on out-of-date information. The January 2007 Commission Newsletter will also be distributed. Please let the Commission office know if you do not receive these publications.

**Broker Feedback Requested** – The final date for current Industry Members to complete the New Forms Information Session is January 18<sup>th</sup>, 2007.

**CPE Courses** – All Industry Members are reminded that annual CPE requirements must be met by June 30<sup>th</sup>, 2007. The consequence of not completing your courses is that your licence will not be renewed



July 1<sup>st</sup> and you will not be able to trade in real estate. You will also be required to stop all advertising, remove For Sale signs and shut down websites. With less than six months left, it is strongly recommended that you do not leave this to the last minute. Take the time to get your courses in the winter while business is reasonably quiet. Don't wait until May-June when you are very busy.

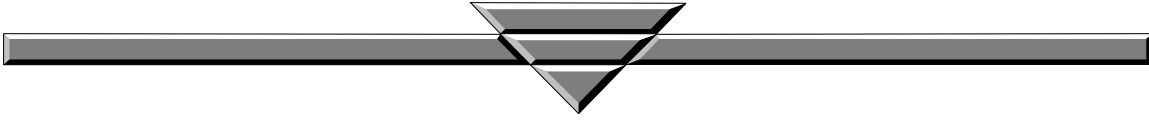
All Industry Members must complete the two day Agency Fundamentals course. An elective is not required for this licensing cycle.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

7 Scarfe Court  
Dartmouth, N.S.  
B3B 1W4

Phone # 468-3511 or 1-800-390-1015  
Fax # 468-1016 or 1-800-390-1016



## **-Request for Nominations-**

The annual election for an Industry Member to serve on the Nova Scotia Real Estate Commission will take place on Thursday, March 22<sup>nd</sup>, 2007, 1:00 PM, in the auditorium of the real estate building at 7 Scarfe Court, Burnside.

Any Industry Members interested in putting their name forward must complete the attached form and have it signed by ten Industry Members in order for their name to be placed on the Nomination List.

**Nominations must be received by the Commission office  
no later than Wednesday, February 21<sup>st</sup>, 2007, at 4:30 PM.**

The election will be for one position on the Commission. The term of the position will be for three years commencing May 1<sup>st</sup>, 2007. The first person to receive 50% plus 1 of the ballots cast will be declared elected.

All Industry Members in good standing are eligible to let their name stand. Those nominated must not have been found guilty of any offence by the Commission, or a Board/Association during the past two years for violation of the Code of Conduct or Professional Standards.

Persons interested in serving should be aware of both the seriousness of this position and the time commitment involved. The Industry Member elected to the Commission will have to attend five Commission meetings per year and serve on one or more committees of the Commission.

Please feel free to call the Registrar should you have any questions or need more information before you put your name forward.



# -Nomination Form-

## for the NOVA SCOTIA REAL ESTATE COMMISSION



I, \_\_\_\_\_, who is licensed as a \_\_\_\_\_ with the \_\_\_\_\_ Brokerage in the city/town of \_\_\_\_\_ consent to being nominated for election as a Commissioner of the Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

The Industry Members signed below nominate the above Industry Member for election to the Nova Scotia Real Estate Commission (*Must be signed by ten current Industry Members*):

Name (Please Print)	Signature	Brokerage
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

**-Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission- Nominations must be received by the Commission no later than 4:30 PM, February 21<sup>st</sup>, 2007.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

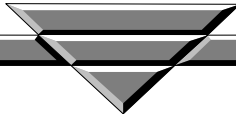
Fax # 902-468-1016

#96

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



December 11, 2006

## Commission News

**New Forms Information Sessions** – The Commission decided at its Board of Directors meeting December 7<sup>th</sup> that all current Industry Members who have not completed this Information Session by January 31<sup>st</sup>, 2007, will have their licence suspended, effective February 1, 2007, and the licence will remain suspended until the Industry Member has completed the Information Session. The only date the Information Session is available before that deadline is **Thursday, January 18<sup>th</sup>, 2007**. The Session will be presented in the auditorium of 7 Scarfe Court, Burnside, from 9:00 AM to 1:30 PM.

Should an Industry Member be suspended, they will not be able to trade in real estate until they complete the information Session. In addition, any current Industry Members that require the information session after February 1<sup>st</sup> will be required to pay a fee of \$100 for the session.

Anyone who not completed this requirement, must contact Elaine Moulton at 468-3511 or email her at [emoulton@nsrec.ns.ca](mailto:emoulton@nsrec.ns.ca) to register.

**Licence Fee Changes** - The Commission recently approved the 2007 budget and as a result several fees are being adjusted, as shown below:

- Renewal fee for all licences – **\$205** (+\$5)
- Transfer of Licence – **\$70** (+\$10)
- Exam Review – **\$60** (+\$10)
- Brokerage Audit – All audit categories have been increased **\$10**

**Commission Holiday Hours** – The Commission office will be closed Monday, December 25<sup>th</sup>, Tuesday the 26<sup>th</sup> and Friday the 29<sup>th</sup>. It will also be closed Monday, January 1<sup>st</sup>.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

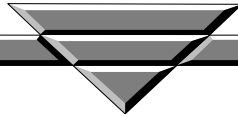
Fax # 902-468-1016

#95

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



December 6, 2006

## Commission News

**Commission Holiday Hours** – The Commission office will be closed Monday, December 25<sup>th</sup>, Tuesday the 26<sup>th</sup> and Friday the 29<sup>th</sup>. It will also be closed Monday, January 1<sup>st</sup>.

**Condos – For Sale Signs & Lockboxes** - The Commission regularly receives complaints about signs or lockboxes improperly placed on condo buildings or ones that have been left long after the condo is off the market. It is not enough for an Industry Members to just make assumptions about where either of these items can be placed. The Industry Member should seek information from the condo association to verify what is and is not permitted. Should a condo owner tell you it is ok to place either a sign or lockbox, either ask to see the condo rules regarding this issue or check with the condo corporation directly. The unit owner does not have authority over common areas of a condo.

**Scent Free** – Industry Members are reminded that when they attend functions they should practice being scent free. At recent information sessions, put on by the Commission, there were several complaints from Industry Members that are very sensitive to perfumes and other scents. One person was not able to function for several weeks as a result of exposure to strong scents. Be considerate and respectful of others.

**Deposits** – As part of the Commission's audit program, audit staff review P&S Agreements in detail. A common issue is how clauses are written, specifically regarding when deposit funds are to be provided. Many times the clauses are too vague, which could leave the status of a transaction at risk, particularly if other issues develop. Clauses that say "Deposit to be provided on removal of conditions" is an example of a poor clause. What conditions is it referring to? If the deposit funds are not provided and deposited "on acceptance" then the clause should be very specific as to when the deposit funds must be provided. A specific triggering event should be used to determine when the deposit is required. An example would be "Deposit to be provided to the Seller's brokerage on approval of financing." This would require the deposit to be provided no later than the end of the deemed arranged date. Other triggering events that could be used are the inspection or water test dates.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

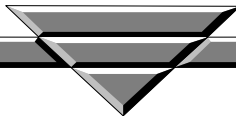
Fax # 902-468-1016

#94

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



October 26, 2006

## Commission News

**Introduction of New Forms – Final Notice !** - Information sessions will be held this October – November to introduce a series of new forms. There are five forms that are being finalized by the Commission and NSAR for use by industry members. Two of them replace existing Mandatory Forms, two replace current Standard Forms and one is new. They are:

- Seller Brokerage Agreement (replaces current Form 500 - Authority to Sell / Listing Agreement)
- Buyer Brokerage Agreement (replaces current Form 128 – Buyer Agency Agreement)
- Limited Dual Agency Agreement (replaces current Form 140)
- Fee Agreement and Seller / Customer Status Acknowledgement (replaces current Form 129)
- Buyer / Customer Status Acknowledgement (new)

**All industry members must attend one of the information sessions offered this fall** and will receive a credit that can be carried over to the next year's licensing cycle. The sessions are designed to explain the significant changes that have taken place to existing forms and to introduce the new forms. The changes to these forms result from recommendations contained in the National Agency Task Force Report but do not include any changes to agency practices. The new forms will go hand-in-hand with the Agency Fundamentals Course, which is the Mandatory CPE course for the 2006/2007 licensing cycle. Agency changes, which include designated agency and transaction brokerage, will not be introduced at this time; it will be 2007 at the earliest.

There is no charge for these sessions. Attendance at this mandatory information session is in addition to the requirement for a Industry Members to complete the two day Agency Fundamentals Course (registration through NSAR) for this licensing cycle. The information sessions will run from 9:00 AM to 1:30 PM, including a 30 min. break. This is being done to try and complete the sessions without taking a full day of your schedule.

The **FINAL** information sessions will be held on the following dates:

<b>Halifax/Dartmouth</b> – Burnside	October 31 (a few spaces are available)
	November 1 & 2 (a few spaces are available)
	November 22 (a few spaces are available)

Registrations are required. To register for a specific date, call Elaine Moulton at 468-3511 or fax 468-1016. You can also email Elaine at [emoulton@nsrec.ns.ca](mailto:emoulton@nsrec.ns.ca).

**Form Change Implementation – Effective January 1, 2007** - The Nova Scotia Association of REALTORS® and the Nova Scotia Real Estate Commission have agreed to implement the five new forms described above as Mandatory Forms. All industry members must use these new forms effective January 1, 2007. Please keep this in mind when ordering the current versions of these forms. You will not receive any credit for old forms still in your inventory at January 1.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

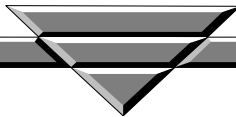
Fax # 902-468-1016

#93

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



October 11, 2006

## Commission News

**Introduction of New Forms** - Information sessions will be held this October – November to introduce a series of new forms. There are five forms that are being finalized by the Commission and NSAR for use by industry members. Two of them replace existing Mandatory Forms, two replace current Standard Forms and one is new. They are:

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<b>Halifax/Dartmouth</b> – Burnside	October 18 & 31 (both dates are now full) November 1 & 2 (a few spaces are available) November 22 (last offering of this presentation)
<b>Sydney</b> – Cambridge Suites	October 13
<b>Coldbrook</b> – Wandlyn Inn	October 17 and 26
<b>Bridgewater</b> – Wandlyn Inn	October 19
<b>Yarmouth</b> – Rodds Inn	October 25

Registrations are required for the Halifax location, due to the large numbers in Metro. To register for a specific date, call Elaine Moulton at 468-3511 or fax 468-1016. You can also email Elaine at [emoulton@nsrec.ns.ca](mailto:emoulton@nsrec.ns.ca).

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**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

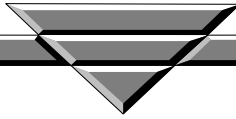
Fax # 902-468-1016

#92

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



October 4, 2006

## Commission News

**Introduction of New Forms** - Information sessions will be held this October – November to introduce a series of new forms. There are five forms that are being finalized by the Commission and NSAR for use by industry members. Two of them replace existing Mandatory Forms, two replace current Standard Forms and one is new. They are:

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<b>Broker / Managers</b> – Burnside	October 11 ( <i>Brokers/Managers can take any of the other sessions if they prefer</i> )
<b>Halifax/Dartmouth</b> – Burnside	October 18 & 31 and November 1 & 2
<b>Truro</b> - Best Western	October 6
<b>Antigonish</b> – Maritime Inn	October 12
<b>Sydney</b> – Cambridge Suites	October 13
<b>Coldbrook</b> – Wandlyn Inn	October 17 and 26
<b>Bridgewater</b> – Wandlyn Inn	October 19
<b>Yarmouth</b> – Rodds Inn	October 25

Registrations are required for the Halifax location, due to the large numbers in Metro. To register for a specific date, call Elaine Moulton at 468-3511 or fax 468-1016. You can also email Elaine at [emoulton@nsrec.ns.ca](mailto:emoulton@nsrec.ns.ca).

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**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

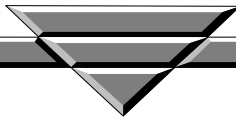
Fax # 902-468-1016

#91

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



September 15, 2006

## Commission News

**Introduction of New Forms** - Information sessions will be held this October – November to introduce a series of new forms. There are five forms that are being finalized by the Commission and NSAR for use by industry members. Two of them replace existing Mandatory Forms, two replace current Standard Forms and one is new. They are:

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<b>Broker / Managers</b> – Burnside	October 11
<b>Halifax/Dartmouth</b> – Burnside	October 18 & 31 and November 1 & 2
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<b>Coldbrook</b> – Wandlyn Inn	October 17 and 26
<b>Bridgewater</b> – Wandlyn Inn	October 19
<b>Yarmouth</b> – Rodds Inn	October 25

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**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

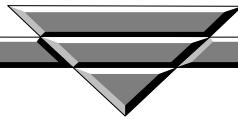
Fax # 902-468-1016

#90

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



August 25, 2006

## Commission News

**Introduction of New Forms** - Information sessions will be held this October – November to introduce a series of new forms. There are five forms that are being finalized by the Commission and NSAR for use by industry members. Two of them replace existing Mandatory Forms, two replace current Standard Forms and one is new. They are:

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**Agency Misinformation** - Just a quick note about rumours that continue to circulate about upcoming changes to agency. The proposed changes do not eliminate dual agency or the ability of brokerages or individuals to do what is commonly referred to as double-enders. The eventual changes will give alternatives to dual agency within brokerages when more than one industry member is involved. The Agency Fundamentals Course being offered this year is focused on industry members obtaining a better understanding of the various agency concepts and hopefully will result in better practices. This is especially true when it comes to Limited Dual Agency, which is often carried out improperly.

**Brokers/Managers – Please share this information with your Salespeople**



# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

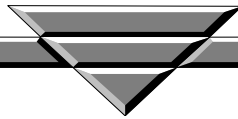
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#89

1-800-390-1015

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1-800-390-1016



July 25, 2006

## Commission News

**Natal Day** – The Commission's office will be closed Monday, August 7<sup>th</sup>, for Natal Day.

**Audit Cooperation** – The Commission has had several instances lately where brokerages have not cooperated, in a timely fashion, with providing audit documents or the brokerage office not being available to the Commission's auditor. As a result, the Board of Directors has put a new policy in place. The Commission's audit staff will continue to follow the current procedures of giving notice for audits and following up. When a brokerage does not cooperate, they will notify the Registrar, who will give written notice to the broker giving him/her 15 days to provide the required information or access. If they fail to do that, the brokerage's licence is to be immediately suspended by the Registrar. In addition, further discipline action could result.

Brokerage and trust account audits are a very important part of the Commission's role as regulator of the real estate industry. The primary goals of the Commission are to protect the public in their real estate dealings and to enforce the Real Estate Trading Act and Commission By-Law. Failure by brokerages to be fully cooperative in audits is a serious issue that can result in serious consequences.

**Release of Deposits** – Shown below are three separate deposit issues.

Release of Deposits to third parties – Sometimes a friend or relative provides deposit funds to a buyer when an offer is made. The offer and resulting agreement are between the seller and the buyer. The person who provided the deposit funds to the buyer is not a party to the transaction. As a result, the brokerage holding the trust deposit cannot automatically release the deposit to the third party, should the transaction be terminated and the seller agrees to release the deposit. The deposit must be returned to the buyer, unless the buyer has provided written instructions to the brokerage to pay the deposit directly to a third party.

Timely Deposits – An ongoing issue is the late delivery of deposit funds to the seller's brokerage. If an agreement calls for a deposit to be made by a certain time, then that deadline must be met. If it is not, the seller has the option of terminating the contract as the buyer has breached the agreement. This could be especially problematic for a buyer in a competing offer situation, because the seller could decide to go with a different buyer. The seller's brokerage must notify the seller, in writing, immediately if the buyer has not provided the deposit as agreed to in the contract.

New Deposit Release Policy – The Commission has approved a new deposit release policy that will make it easier for brokerages to release deposits in certain situations. The policy, along with sample written notices, will be provided to brokerages in late August.

**New Forms Information Sessions** – The Commission and the Association are in the final steps of approving new versions of five forms. The Commission will be putting on information sessions in the month of October, throughout the province. It will be mandatory for all industry members to go to one of the information sessions as the form changes are quite significant. It is important that industry members be aware of the changes and understand the reasoning for the changes. A schedule will be sent out in late August. The forms that will be presented are Seller and Buyer Brokerage Agreements, Dual Agency Agreement, Fee Agreement and Seller/Customer Status Acknowledgement, and Buyer/Customer Status Agreement.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

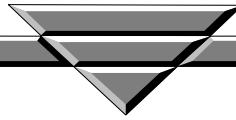
Fax # 902-468-1016

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1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



July 14, 2006

## Commission News

**Discipline Decisions- Publication Threshold** – Over the last year, the Commission Complaint Review Committee has adjusted the level of fines for breaches of the Act or Commission By-Law. Previously the minimum fine for most minor infractions was \$200. This amount had not been adjusted in nine years, so the Committee felt an increase was necessary to stress the importance of complying with the rules and regulations. As a result, the minimum fine is now \$400. The threshold for publication of the name of the Industry Member and the details of the discipline was any fine over \$300. That has now been amended to any fine over \$500. This would mean any Industry Member fined over \$500, for any single breach, would have their name published in this bulletin and posted on the Commission's website for 30 days. Multiple fines that add up to more than \$500 would not trigger the publication requirement.

**Property Insurance** – From time-to-time the issue of meeting insurance requirements comes up in complaints to the Commission. This can result from two different issues.

The first problem is allowing too long for confirmation of the ability to get property insurance. This clause should be treated like a financing or inspection clause where it is in the best interests of all parties to get this resolved early on so that it does not create problems close to or at closing time. It is recommended you keep the timeframe fairly short.

The second issue is the need to explain to buyers the importance of them contacting their insurance broker and making the necessary arrangements within the allowed timeframe. Many buyers do not understand the importance of getting their insurance status resolved early on because they do not think it will be an issue. Sometimes, when left late, it becomes a very serious issue and delays or prevents a closing. Not only should you stress the importance of getting this done when you are dealing with the offer, you should follow-up with the buyer before the time runs out to confirm they have taken the necessary steps.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

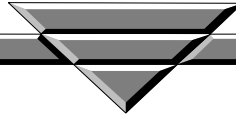
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1-800-390-1016



June 30, 2006

## Commission News

**End of 05-06 Licensing Cycle** – June 30, 2006 marks the end of this licensing cycle. All brokerages were required to have their licence renewals in by June 15<sup>th</sup>. In addition, all Industry Members were required to have their CPE courses completed by June 30<sup>th</sup>. Attached is a list of brokerages and individuals whose licences have not been renewed. This lapse in licensing means that they are not permitted to trade in real estate until the information/fees are provided or courses completed.

All other Industry Members that have complied with renewal requirements have been renewed. The actual licences and wallet cards are expected to be distributed to brokerages by July 15<sup>th</sup>. The status of whether or not a person or brokerage is licensed is determined by the Registrar of the Commission and not by holding an actual paper licence.

**New Licensing Cycle** – July 1<sup>st</sup> will mark the beginning of the next licensing cycle, which runs through to June 30, 2007. The Commission has specified that all Industry Members must complete a two day mandatory course called “Agency Fundamentals” for the next cycle. Industry Members will not be required to complete an elective course for the 2006-2007 licensing cycle. Industry Members who do complete an elective course may carry forward the extra credits to the next licensing cycle.

NSAR is currently preparing the courses for the 2006-2007 licensing cycle. The course schedule will be distributed to all brokerages around the end of August. There will be elective courses available, on demand, in addition to the mandatory courses. The first courses will be run in September. There will not be any courses, for this licensing cycle, offered in July-August, as there has been little interest in summer courses in the past.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

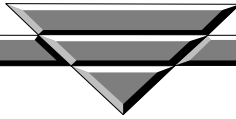
Fax # 902-468-1016

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1-800-390-1015

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1-800-390-1016



June 13, 2006

## Commission News

**Renewal Deadline** – Brokerages are reminded that the licence renewal forms and fees are required to be submitted to the Commission by this Thursday, June 15, 2006. Renewals that are not received or postmarked by June 15<sup>th</sup>, 2006, will be subject to an administrative penalty. All current licences expire June 30, 2006. Any licence renewals not submitted properly by June 30<sup>th</sup> will have all fees for that renewal adjusted as if they were a new application, as per By-Law 326.

**Renewal Applications** – Brokers are reminded that all renewals for their brokerage should come from the broker as a package and not be sent in individually. Also, there must only be one cheque from the brokerage for all of the renewal fees. Here is a list of common problems with renewals:

- Cheque made out to NSAR instead of the Commission
- Individual salespeople trying to pay renewal fees instead of the brokerage
- Individuals losing their form and requesting a replacement form
- Forms not completed properly:
  - Information missing
  - Back page not filled out and signed by the renewal applicant
  - Signature not witnessed
  - Correction section of the form filled out completely when there were no corrections

**Errors & Omissions Insurance** – The Commission has approved a delay in the requirement for brokerages to have Errors & Omissions Insurance in place by July 1, 2006. This has been postponed to **July 1, 2007**. The Commission is in discussions with NSAR to see if the issue of coverage for non-members can be resolved. Additional information will be provided later this year.

**Continuing Professional Education** – A reminder that there are only two weeks left for all Industry Members to complete the required CPE courses. Industry Members must complete the appropriate Mandatory Course and one Elective Course for this licensing cycle, no later than June 30, 2006. Should you fail to complete the necessary courses, your licence will not be renewed on July 1, 2006. If you are not renewed on that date, you will be required to stop trading in real estate until the course requirement has been met. This means all signage would have to be removed and advertising stopped, including removal of any presence you may have on the internet. Not completing your courses could become a very expensive and time consuming exercise that is completely unnecessary.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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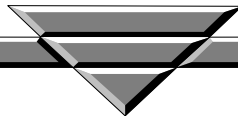
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May 24, 2006

## Commission News

**Volunteers Needed** – Each year around the end of May the Commission reviews its committees. The Chair of the Commission, who is elected by the Commissioners at the May Commission meeting each year, appoints the committee chairs. The membership of the committees is then revisited. Any industry members that have an interest in serving on one of the standing committees, should fax the Commission office a note putting their name forward for consideration. The main committees are Licensing, Complaint Review and Discipline. If you are interested, please let the Commission know no later than Monday, June 5<sup>th</sup>.

**Accuracy Disclaimers** – There has been a trend in recent years for brokerages or industry members to add disclaimers to documents with regard to the accuracy of information being provided. Industry members are cautioned that this does not relieve them of their professional obligation to provide accurate, factual information, whether it is related to listing information or other information provided during negotiations or the carrying out of a contract. Sloppy work or errors easily identified by the average practitioner in the industry would not be relieved of responsibility simply because they had included a disclaimer. Industry members might also want to consider the message they are sending consumers.

**Errors & Omissions Insurance** – The Commission has approved a delay in the requirement for brokerages to have Errors & Omissions Insurance in place by July 1, 2006. This has been postponed to July 1, 2007. The Commission is in discussions with NSAR to see if the issue of coverage for non-members can be resolved. Additional information will be provided later this year.

**Continuing Professional Education** – A reminder that there are only five weeks left for all Industry Members to complete the required CPE courses. Industry Members must complete the appropriate Mandatory Course and one Elective Course for this licensing cycle, no later than June 30, 2006. Should you fail to complete the necessary courses, your licence will not be renewed on July 1, 2006. If you are not renewed on that date, you will be required to stop trading in real estate until the course requirement has been met. This means all signage would have to be removed and advertising stopped, including removal of any presence you may have on the internet. Not completing your courses could become a very expensive and time consuming exercise that is completely unnecessary.

**Renewal Deadline** – Brokerages are reminded that the licence renewal forms and fees are required to be submitted to the Commission by June 15, 2006. Renewals that are not received or postmarked by June 15<sup>th</sup>, 2006, will be subject to an administrative penalty. All current licences expire June 30, 2006.

**Renewal Applications** – Brokers are reminded that all renewals for their brokerage should come from the broker as a package and not be sent in individually. When the forms are filled out, please ensure they have been completed properly. This includes the back page, which many industry members fail to turn over and complete. Also, please don't fill out the information section on the front page, except for changes. Signatures of applicants must also be properly witnessed.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

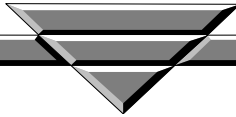
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1-800-390-1016



May 19, 2006

## Commission News

**Election of Chair & Vice-Chair of the Commissioner** – An election was held at the last Commission Board of Directors' meeting. Neil Black was re-elected as the Chair for the next 12 months and Howard Oakey was re-elected Vice-Chair.

**Errors & Omissions Insurance** – The Commission has approved a delay in the requirement for brokerages to have Errors & Omissions Insurance in place by July 1, 2006. This has been postponed to July 1, 2007. The Commission is in discussions with NSAR to see if the issue of coverage for non-members can be resolved. Additional information will be provided later this year.

**Continuing Professional Education** – A reminder that there are only eight weeks left for all Industry Members to complete the required CPE courses. Industry Members must complete the appropriate Mandatory Course and one Elective Course for this licensing cycle, no later than June 30, 2006. Should you fail to complete the necessary courses your licence will not be renewed on July 1, 2006. If you are not renewed on that date, you will be required to stop trading in real estate until the course requirement has been met. This means all signage would have to be removed and advertising stopped, including removal of any presence you may have on the internet. Not completing your courses could become a very expensive and time consuming exercise that is completely unnecessary.

**Renewal Deadline** – Brokerages are reminded that the licence renewal forms and fees are required to be submitted to the Commission by June 15, 2006. All current licence expire June 30, 2006.

**Incorporation of Salespeople** – This has been a recurring issue. Currently there is no rule or prohibition to Industry Members incorporating a company, but if an Industry Member wishes to carry out trading in the name of that incorporated company, then the company has to be licensed as a brokerage.

Brokerages are required to pay any commissions that are due to Industry Members working for that brokerage, directly in the name of the Industry Member as indicated on their licence to trade in real estate. The brokerage **cannot pay** commissions in the name of the Industry Members incorporated company. The Commission has been discussing this issue and is looking favourably towards making the necessary changes to allow this, but it would require changes to both the Real Estate Trading Act and the Commission By-Law. Changes to legislation could take several years.

The significant issue is not who actually gets paid the commission, but the impact of Industry Members working as incorporated entities and the liability shield that goes along with incorporation. The Commission wants to ensure that this would be structured in such a way that Industry members could not shield themselves from liability in their trading activities, from either consumers or the Real Estate Commission.

**Lawyers Trading in Real Estate** – Attached is a press release that clarifies this matter.

**Brokers/Managers – Please share this information with your Salespeople**

# Press Release

## Nova Scotia Real Estate Commission

### Re: Lawyers Trading in Real Estate without a licence

The Nova Scotia Real Estate Commission wishes to clarify a matter that has been in the courts recently and commented on in the media.

The Nova Scotia Real Estate Commission had made application to The Supreme Court of Nova Scotia for an interim injunction against a law firm that was advertising and carrying out real estate brokerage services without having a licence through the Real Estate Commission. The Court refused to issue an interim injunction.

The issue decided in the court application was solely related to whether or not an interim injunction should be granted. The Commission will be going to trial on the issue of a specific law firm trading in real estate and whether the exemption in the Real Estate Trading Act allows a lawyer to offer real estate brokerage services. The Commission is of the opinion that the exemption does not permit lawyers, in their normal course of legal practice, to offer brokerage services. The Commission is not saying that lawyers cannot trade in real estate, it is saying that lawyers offering real estate brokerage services must be licensed to do so.

The Nova Scotia Real Estate Commission is the Regulatory body given responsibility to administer and enforce the Real Estate Trading Act for the protection of the public.

#### Contact information:

Doug Dixon, Registrar  
Nova Scotia Real Estate Commission  
7 Scarfe Court, Suite 200  
Dartmouth, NS  
B3B 1W4

Phone: 902-468-3511  
Fax: 902-468-1016

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

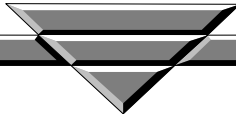
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1-800-390-1015

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1-800-390-1016



April 13, 2006

## Commission News

**Election of Commissioner** – An election was held at the Annual Meeting on Thursday, March 23<sup>rd</sup>, 2006. Neil Black, the Broker for Aberdeen Commercial Realities of Dartmouth, was elected to a second three year term commencing May 1, 2006.

**Appointment of Commissioners** – There have been two appointments made to the Commission over the last month. NSAR appointed John MacKay, Broker for MacKay Real Estate of Wolfville, to a three year term commencing May 1, 2006. The Governor in Council of the Nova Scotia Provincial Government has appointed David Melvin, a lawyer practicing in Dartmouth, as a Public Member effective July 2006.

**Error & Omissions Insurance** – A reminder that all brokerages and licensees will have to have Errors & Omissions insurance in place by July 1, 2006, as per By-Law 365. Until the Annual General Meeting in March, the Commission was of the understanding that any licensee, whether they are a member of NSAR or not, would be able to obtain the necessary coverage through NSAR. The Association has informed the Commission the coverage is not available to non-members. Non-members will have to make arrangements through a commercial insurance carrier as necessary.

**Continuing Professional Education** – A reminder that there are only ten weeks left for all industry members to complete the required CPE courses. Industry members must complete the appropriate Mandatory Course and one Elective Course for this licensing cycle, no later than June 30, 2006. Should you fail to complete the necessary courses your licence will not be renewed on July 1, 2006. If you are not renewed on that date you will be required to stop trading in real estate until the course requirement has been met. This will mean all signage will have to be removed and advertising stopped, including removal of any presence you may have on the internet. Not completing your courses could become a very expensive and time consuming exercise that is completely unnecessary.

**Incomplete Documentation** – The Commission continues to receive incomplete documentation for licence applications, transfers, renewals and terminations. This causes the applications to be rejected and sent back for completion, which usually frustrates the individual involved because it delays them.

To prevent this, Brokers / Managers and applicants should ensure:

- All the necessary information is completed;
- The applicant has signed and the signature has been witnessed by a Commissioner of Oaths, if required;
- The Broker or Manager has completed and signed the form and included the appropriate "Schedule", if required; and
- The appropriate fees accompany the application.

Should any of these items not be properly completed the application will be returned along with instructions for what is necessary to correct the application.

**Brokers/Managers – Please share this information with your Salespeople**



# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

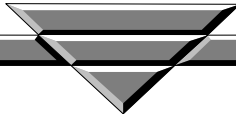
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1-800-390-1016



February 20, 2006

## Commission News

**Annual Meeting of the Commission** – The Annual Meeting will be held on Thursday, March 23<sup>rd</sup>, 2006, at 1:00 PM. The meeting will be held in the auditorium of the real estate building at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 PM.

**Election of a Commissioner** – There will be an election for a Commissioner held at the Commission's Annual Meeting on March 23<sup>rd</sup>. Information and nomination forms were sent out in January. Nominations must be received no later than Wednesday, February 22<sup>nd</sup>, 2006, at 4:30 PM. If you are interested in putting forward a nomination, but require more information, then please call the Registrar. If you require a copy of the nomination form, please call the Commission office.

**Witnessing of Signatures** – Both the need for witnessing signatures and the practice on how it is carried out seem to be widely misunderstood within the industry. The definition of “witnessing” is as follows:

*A person who has seen or knows something and is therefore competent to give evidence concerning it.*

There are two different situations that the Commission deals with regularly where problems arise.

1. Licensees should only witness a signature if they actually are present and have seen the document signed. If they did not physically see the document signed, then they cannot witness the signature. A Purchase & Sale Agreement is a legal document without the signatures being witnessed, but it is a better legal document if the signatures are witnessed. Licensees should never witness signatures to a document that was faxed for signature and faxed back or if they were not present at the time of signing. You would not have been able to see the buyer or seller actually sign the document. The person signing the document should actually have someone who is physically there witness the document or return it without a witness signing it.
2. The Commission has a number of licence applications that require a Commissioner of Oaths, a notary or a lawyer to witness the applicant's signature. Frequently, the applications are submitted to the Commission without the necessary witnessing or with a signature of a witness who does not meet the requirements. An application is a legal document whereby the applicant is swearing to certain information and the witness signature must be properly executed.

Brokers and Managers should ensure that all documents are properly executed. Applications submitted to the Commission are returned if the proper witnessing has not been done. This delays an applicant's licence from being issued.

**Referrals & Bird-dogging** – A reminder that brokerages and licensees cannot pay referral or bird-dogging fees to any person who is not licensed.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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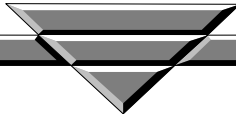
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1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



January 3, 2006

## **Commission News**

**Annual Meeting of the Commission** – The Annual Meeting will be held on Thursday, March 23<sup>rd</sup>, 2006, at 1:00 PM. The meeting will be held in the auditorium of the real estate building at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 PM.

**Election of a Commissioner** – There will be an election for a Commissioner held at the Commission's Annual Meeting on March 23<sup>rd</sup>. Information and nomination forms are attached. Nominations must be received no later than Wednesday, February 22<sup>nd</sup>, 2006, at 4:30 PM. If you are interested in putting forward a nomination, but require more information, then please call the Registrar.

**Brokerage Manual Update and Commission Newsletter** – An update for Brokerage Manuals was sent out to all brokerages a couple of weeks ago. It is very important that your brokerage manual is kept up-to-date and current. You do not want to be basing decisions on out-of-date information. The December 2005 Commission Newsletter was also distributed. Please let the Commission office know if you did not receive these publications.

**Broker Feedback Requested** – The Commission is discussing revising the administration fee brokerages may charge when a party to a transaction has requested the interest on the deposit to be paid to a party to the transaction, as per By-Law 635, which states:

*Where a Brokerage holds money in trust pursuant to Section 33 of the Act, the Brokerage may charge a buyer or seller, as the case may be, an administration fee that does not exceed \$100.00.*

The Commission would appreciate any feedback you may have regarding the amount of the administration fee that you are permitted to charge. Please provide the feedback in written form by January 31, 2006.

**Signage and Advertising** – The Commission discussed an issue that is becoming more prevalent recently, the improper use of colours in signage and advertising. All brokerages have had their signage approved by the Commission at the time of licensing. Brokerages that operate under franchise agreements have specific requirements as well when it comes to using proper colours. Frequently signage and advertising copy are showing up that use colours quite different from the approved colours.

Brokers and licensees representing brokerages that do self promotion, are reminded that they must use the approved colours. Failure to do so, could result in sanctions should an investigation establish that the colours being used have not been approved. Brokers should check signage, advertising copy and websites of all licensees employed by the brokerage to ensure this is being done properly.

**Brokers/Managers – Please share this information with your Salespeople**

**CPE Courses** – All licensees are reminded that annual CPE requirements must be met by June 30<sup>th</sup>, 2006. The consequence of not completing your courses is that your licence will not be renewed July 1<sup>st</sup> and you will not be able to trade in real estate. You will also be required to stop all advertising, remove For Sale signs and shut down websites. With less than six months left, it is strongly recommended that you do not leave this to the last minute. Take the time to get your courses in the winter while business is reasonably quiet. Don't wait until May-June when you are very busy.



**Notices to the Commission** – Licensees are reminded there are many instances when the Commission should be notified of changes. The most common ones are:

### Brokerage

- giving notice of opening a branch office
- giving notice of closing a branch office
- sending in copy of terminations within the time requirements

### Licensees

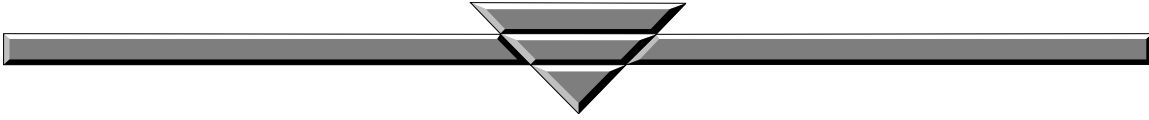
- change of home address
- change of personal contact numbers (phone/cell/pager)
- advising of a criminal conviction or judgment
- advising of legal actions regarding a real estate transaction

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

7 Scarfe Court  
Dartmouth, N.S.  
B3B 1W4

Phone # 468-3511 or 1-800-390-1015  
Fax # 468-1016 or 1-800-390-1016



## **-Request for Nominations-**

The annual election for a licensee to serve on the Nova Scotia Real Estate Commission will take place on Thursday, March 23<sup>rd</sup>, 2006, 1:00 PM, in the auditorium of the real estate building at 7 Scarfe Court, Burnside.

Any licensees interested in putting their name forward must complete the attached form and have it signed by ten licensees in order for their name to be placed on the Nomination List.

**Nominations must be received by the Commission office  
no later than Wednesday, February 22<sup>nd</sup>, 2006, at 4:30 PM.**

The election will be for one position on the Commission. The term of the position will be for three years commencing May 1<sup>st</sup>, 2006. The first person to receive 50% plus 1 of the ballots cast will be declared elected.

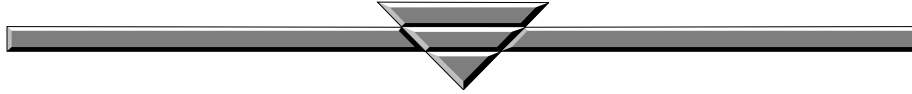
All licensees in good standing are eligible to let their name stand. Those nominated must not have been found guilty of any offence by the Commission, or a Board/Association during the past two years for violation of the Code of Conduct or Professional Standards.

Persons interested in serving should be aware of both the seriousness of this position and the time commitment involved. The licensee elected to the Commission will have to attend five Commission meetings per year and serve on one or more committees of the Commission.

Please feel free to call the Registrar should you have any questions or need more information before you put your name forward.

# -Nomination Form-

## for the NOVA SCOTIA REAL ESTATE COMMISSION



I, \_\_\_\_\_, who is licensed as a \_\_\_\_\_ with the \_\_\_\_\_ Brokerage in the city/town of \_\_\_\_\_ consent to being nominated for election as a Commissioner of the Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

The licensees signed below nominate the above licensee for election to the Nova Scotia Real Estate Commission (*Must be signed by ten current licensees*):

	Name (Please Print)	Signature	Brokerage
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____

**-Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission-  
Nominations must be received by the Commission no later than 4:30 PM, February 22, 2006.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

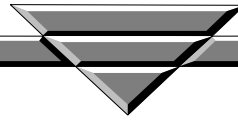
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1-800-390-1015

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1-800-390-1016



November 28, 2005

## Commission News

**Publication of Discipline Decisions** – The Complaint Review Committee and the Commission Board of Directors recently reviewed the size of fines and at what level should publication of discipline decisions be required. Previously, the Registrar was required to publish, in an industry publication and on the Commission’s website, the name and details regarding a discipline action whenever the fine was \$300 or more. The amount of fines had not been revised since the Commission was enacted almost nine years ago. The Commission Board of Directors approved moving the publication threshold to \$500. This means that any fines over \$500 will trigger the publication requirement. Fines up to and including \$500 will not. This also means fines that have typically been \$100 to \$300 will now be in the \$300 to \$500 range.

**Disclosing Seller’ Purchase Price** – Recently there have been several complaints from sellers where salespeople representing buyers have been giving the buyers information on the price paid by the seller when they originally acquired the property. The Commissioners discussed this issue at the last Board of Directors meeting.

The Commission’s position is that if the information is available through the MLS or a brokerage’s records, that does not involve a breach of agency from a previous relationship, then the buyer’s agent can provide the information to a prospective buyer. Although it is permissible to provide this information, it should be done with caution. The length of time since the seller purchased the property, the past and current market conditions, as well as the possibility of renovations or changes to the property, could all have a dramatic effect on the value of the property today as compared to what was paid for it. Caution is recommended.

**Brokerage Audits & Transaction Files** – One of the most common issues the Commission finds, when carrying out brokerage audits, is a lack of complete documentation in transaction files. Commission By-law 621 requires that the items listed below must be documented in the transaction file.

- (i) a trade record sheet signed by the Broker or managing Associate Broker;
- (ii) a listing addendum (cut) sheet;
- (iii) signed acknowledgement of the “Working With A Real Estate Agent” brochure or confirmation that it has been provided;
- (iv) if applicable, a completed Listing Agreement signed by the seller(s);
- (v) any amendments to the Listing Agreement signed by the seller(s);
- (vi) a completed Agreement of Purchase and Sale signed by all parties;
- (vii) any amendments to the Agreement of Purchase and Sale signed by all parties;
- (viii) if applicable, a counter offer signed by all parties;
- (ix) if available, a Property Condition Disclosure Statement (PCDS) signed by all parties;
- (x) if applicable, a Limited Dual Agency Agreement signed by all parties;
- (xi) confirmation from the seller/sellers’ lawyer advising that the transaction has successfully closed; and
- (xii) all other documentation pertaining to the transaction.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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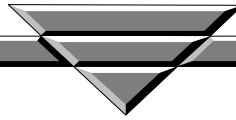
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November 22, 2005

## Commission News

**Courses Not Completed for Licence Renewal** – The Commission reminds all licensees that they must complete their annual Continuing Professional Education by June 30<sup>th</sup>, 2006. Should you fail to complete the required courses, you will be required to remove personal signage off listings and shut down all website and other advertising until your education requirements have been completed and your licence reinstated. The cost of not completing your courses on time could be very high. Consider registering early and getting the courses out of the way in the slower season.

**Negative Comments** – The Commission continues to deal with situations where licensees make negative comments about other licensees or brokerages. This is very unprofessional and the Commission takes this issue seriously. Licensees making such comments should realize that doing this not only makes the real estate industry look badly in the eye of the consumer, but also causes the person making the comments to look very unprofessional.

**Broker / Manager – Please share this information with your salespeople.**

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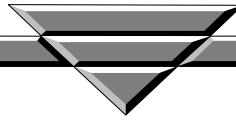
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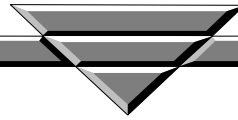
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October 19, 2005

## Commission News

**Backup Offer Procedures** – There have been a number of problem situations regarding backup offers that have come to the Commission's attention. Licensees are urged to exercise extreme caution when dealing with backup offers and to ensure good communications are maintained with all the parties involved. The most important steps are as follows:

- Once a property has an accepted offer against it, make sure all other interested parties are aware that the property is actually sold, subject to conditions;
- Any offer written on a property already having an accepted offer against it, should include clauses that deal with the following points:
  - The backup buyer is aware that there is an accepted offer in place;
  - Acceptance of the backup offer is conditional on the original offer being declared null and void;
  - A notification period (time frame) to the backup buyer, should the first offer fall;

How you deal with a backup offer is very important, most obviously, you cannot sell the same property to two different parties. Should that happen, legal disputes will follow. If you do not communicate properly and make sure written agreements are complete, legal disputes will follow. If it is not handled properly, the licensees involved could lose both the seller and the buyer(s) as clients.

**Appliances** – They continue to be a problem, if not properly identified in the Purchase & Sale Agreement. Should appliances be part of a purchase, the make and model information should be included in the agreement. There have been many situations where the agreement says the fridge and stove to remain, meaning the like new models seen in the kitchen on viewing, only to have much older appliances found there when the pre-closing inspection is done. This then creates a dispute at closing, that sometimes delays the closing or ends up in the licensees involved adjusting their commission to smooth this issue over. Proper documentation in the first place eliminates problems later on.

**Deposits** – The Purchase & Sale Agreement should specify how much the deposit is to be, what form it is in (cheque made out to the listing brokerage, cash, money transfer, etc.), and when it is to be paid. It is up to the listing brokerage to ensure that the deposit is obtained as required and should that not happen, inform the seller immediately and then follow the instructions of the seller. The Commission has recently reviewed the practice of money transfers for deposits. The Commission's policy, when a buyer wishes to provide the deposit by money transfer, is for the buyer's representative to get the transfer codes for the listing brokerage's trust account and have the buyer wire the funds directly to the listing broker's trust account. This is becoming more common as a greater number of consumers stop using cheques. The trust deposit should never be processed through general brokerage accounts.

**Buyer/Seller Booklets** – The Commission is out of stock for the Buyer booklets, but still has Seller booklets in inventory. The Commissioners recently approved reprinting an updated version of both booklets. A notice will be sent out when the new booklets are available.

**Broker / Manager – Please share this information with your salespeople.**

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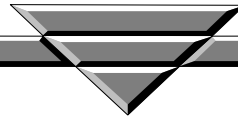
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September 7, 2005

## Commission News

**Commission Appointment** – Congratulations go out to Howard Oakey, a Public Appointment to the Commission, who has been reappointed to serve a second three year term. The appointment is made by Governor In Council and the term will expire September 27<sup>th</sup>, 2008. Howard is currently finishing his last month, the first three year appointment and serves as the Commission's Vice Chair and the Chair of the Finance and Complaint Review Committees.

**Completion of PCDS** – Recently, it came to the attention of the Commission that some licensees are advising sellers not to complete the electrical service amperage size on the PCDS Form. Licensees should never suggest to a seller that they not fill out the PCDS completely, to the best of the Seller's ability. Some licensees may be confusing this issue with the NSAR issue that suggested that salespeople should not be completing the electrical service size on listing addendums.

**Salespeople Incorporating** – The issue of whether or not a salesperson can incorporate is not decided by the Commission. The Commission does not have a policy that says a salesperson cannot be incorporated. The Commission does have rules in place that require commission cheques to be paid to a salesperson employed by the brokerage. Commission cheques cannot be paid to a salesperson's incorporated company. Salespeople should seek accounting and legal advice if they plan to incorporate. The Commission has been looking at the issue of salesperson incorporation, but as any change to the current commission payment rules must be made to the Real Estate Trading Act, it is not anticipated that a change will take place in the near future.

**Notice to Commission** – Licensees are required to notify the Commission of any statements of claim against them regarding a trade in real estate. This reminder is necessary because it has come to the Commission's attention, in several instances, where the notice was never sent to the Commission. Commission B-Law 702, Article 32, states:

*A Licensee is required to give written notice to the Commission within five days after being served with a statement of claim in any litigation concerning a trade in real estate in which the Licensee is named as a defendant. Notification shall include a copy of the statement of claim.*

**Incentives** – Licensees continue to make offers to consumers that are not allowed under the Commission By-Law. Any advertising of an offer or promotion that is done to attract buyers or sellers is called an incentive. Offering incentives is allowed, but the incentive must be offered by the brokerage, not by an individual salesperson. The incentive must be available to the consumer, regardless of which representative of the brokerage they are working with. An individual licensee cannot offer an incentive or "kick-back" to the prospective buyer or seller in order to make it attractive to do business with that specific salesperson. Should you have any concerns whether a promotion is acceptable under the Commission rules, it is best to contact the Commission before offering the incentive.

**Broker / Manager – Please share this information with your salespeople.**

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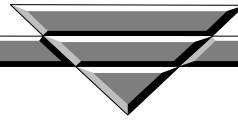
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July 14, 2005

## Commission News

**Commission Fax Number** - The Commission continues to see faxes meant for the Commission sent to the NSAR fax number. Licence applications, terminations, etc, are confidential and should be sent directly to the Commission office. This may be as a result of offices having the old "common" fax number programmed into their fax. Please check your fax machine to see that the Commission fax number is one of the following numbers, as appropriate.

Metro – 468-1016

Long distance – 1-800-390-1016

**Penalties for failing to submit documentation for licence terminations to the Commission -**

There were six brokerages charged an administrative fee, at renewal time, for failing to submit terminations on a timely basis. The licensees in question had terminated long before the June 30<sup>th</sup> expiry date. Brokers are advised that they are still responsible for a salesperson's actions relative to real estate trades, even if they have left the brokerage's employ, if the brokerage has not submitted the termination to the Commission. In the future, the penalty may be more substantial if the broker and/or brokerage are disciplined for not meeting the By-Law requirement.

**Broker / Manager – Please share this information with your salespeople.**

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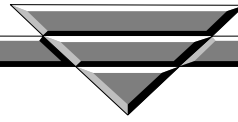
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July 6, 2005

## Commission News

**Brokerage No Cooperation Policy** – This issue continues to be a problem in some areas of the province. Some brokerages are listing properties and not cooperating with other brokerages and are not explaining this to their sellers. When a brokerage takes on a listing, they become the agent for the seller and must act in the best interests of the seller. A brokerage cannot have a “not cooperate” policy without the full and informed consent of the seller. Generally sellers have one goal, that is to sell their property on the best terms possible. Brokerages that do not expose the seller’s property to the market and do not cooperate with other brokerages are doing their sellers a disservice. The only time that a listing should have “not cooperate” status is when the seller has requested it.

**Maple Ridge Estates** – The owners, Killam Properties, of this manufactured home park in Dartmouth have asked the Commission to help dispel a rumour. Killam Properties purchased this property last fall and since then has had instances where licensees have communicated to both residents and potential buyers that the property has been sold and is going to be developed for some other purpose than its current use. Killam Properties states that they are in the business of operating numerous manufactured home parks throughout Eastern Canada. It is their intention to continue operating Maple Ridge Estates as a manufactured home park. Licensees should be cautious when passing on hearsay or rumours.

**Distress Scams!** – It has just come to the Commission’s attention today that there are numerous calls being made to Nova Scotia licensees, by both a man and a woman, claiming to either be a local agent or a client of a local agent and saying they are stranded in Toronto, either with a health issue, no money or both. They are asking the agent to wire them money in order to purchase a ticket to return home. Do not respond to this request unless you have verified that the person making the request is genuine. In most cases, this is part of an elaborate scam for you to send money and the person they are claiming to be is not aware of any of this.

**Make-Up Courses** – NSAR has scheduled two courses for next week that will allow licensees that have not had their licence renewed, due to not completing the required CPE for the 2004-2005 Licensing Cycle, to meet the necessary requirements. Brokerages that have licensees that were not renewed, due to lack of CPE, should ensure the licensee is aware of the courses and has registered or the licensee will be without a licence until at least September. Brokerages should not allow these people to trade in real estate until they have completed their CPE and the Commission has renewed their licence. Trading without a licence will be treated very seriously. The elective course Organizing For Success is being run on Tuesday, July 12<sup>th</sup>, and the mandatory course, for 2004-2005, is being run on Wednesday, July 13<sup>th</sup>. Please contact NSAR directly to register.

**Broker / Manager – Please share this information with your salespeople.**

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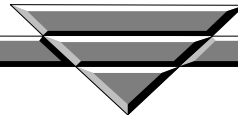
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June 30, 2005

## Commission News

**End of 04-05 Licensing Cycle** – June 30, 2005 marked the end of the last licensing cycle. All brokerages were required to have their licence renewals in by June 15<sup>th</sup>. All licensees were required to have their CPE courses completed by June 30<sup>th</sup>. Attached is a list of brokerages and individuals whose licences have not been renewed. This lapse in licensing means that they are not permitted to trade in real estate until the information/fees are provided or courses completed. One brokerage has closed out and is not renewing.

All other licensees that have complied have been renewed. The actual licences and wallet cards are expected to be distributed to brokerages by July 15<sup>th</sup>. The status of whether or not a person or brokerage is licensed is determined by the Registrar of the Commission and not by holding an actual paper licence.

**New Licensing Cycle** – July 1<sup>st</sup> will mark the beginning of the next licensing cycle, which runs through to June 30, 2006. The Commission has specified that all licensees must complete a six hour mandatory course as well as one three-credit CPE elective course for the next cycle. Licensees who complete a six credit elective course or extra three credit courses may carry forward the extra credits to the next licensing cycle.

NSAR is currently preparing the courses for the 2005-2006 licensing cycle. The course schedule will be distributed to all brokerages around the end of August. There will be several new elective courses available in addition to the mandatory course. The first courses will be run in September. There will not be any courses offered in July-August, as there has been little interest in summer courses in the past.

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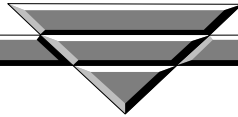
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June 13, 2005

## Commission News

**Personal Signage**– Some licensees have been posting signage at their residence indicating a “REALTOR” or “Sales Representative” lives there. This issue was put forward to the Commission Board of Directors meeting for a policy decision recently. The decision was that there are only two types of signage permitted. The first is signage identifying either a brokerage office or a branch office of a brokerage. The second is signage related to the sale of property, such as “For Sale” signs and directional signage. Signage by individual licensees is no longer permitted.

**Electronic Trust Records** – As the banking industry moves more towards paperless transactions, the return of the actual paper cheques on trust accounts will be eliminated. Brokerages are still required to keep electronic copies of the cheques that were processed on trust accounts. Brokers may have to make arrangements with the bank where they operate their trust account to ensure that electronic copies of the cheques are provided to the brokerage. The brokerage must then maintain those electronic records for a period of seven years. These records must be available to the Commission for audit purposes, as required from time to time.

**Property Showings and Inspections** – The Commission continues to receive complaints about the condition properties are left in after showings or inspections. Licensees are reminded that when showing a property they must leave it as they found it or follow specific instructions, if appropriate. This includes leaving doors and windows as they were found and turning out lights that were turned on for the showing. Pets should be left where they are found. If a dog or cat is outside, it should be left outside, and if it is inside, it should not be let out. In the case of inspections, any mess that is made during an inspection should be cleaned up before you leave. The buyer’s representative is responsible for the property when an inspection is carried out. Should it be necessary for the inspector or the buyer to do, what would be considered an invasive inspection, such as cutting open drywall, then you must get permission from the seller or their representative first.

There have been several reminders on these issues recently, yet very unprofessional practices continue. The Commission will have no choice except to take more aggressive disciplinary action to stop these poor practices from occurring.

**Readable Faxes** – There have recently been a number of problems with unreadable documentation as a result of faxing. Usually the problem results from someone in the “fax chain” having a fax machine that reduces down legal documents to letter size. When this happens, all parties should be provided with a copy of the document in its original size, which is still readable. This means that a readable copy should be available along with the faxed and signed copy that may not be very legible. The signed fax copy is the legal document. The attached, original size version, that would not normally be signed is for reference purposes. The Commission is not saying that you must go out after the fact and get the readable version signed, just make it available to the parties involved.

**Brokers/Managers – Please share this information with your salespeople.**

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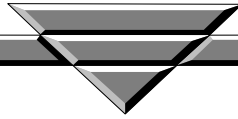
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June 9, 2005

## Commission News

**Licence Renewals**– All real estate licences in Nova Scotia expire on June 30<sup>th</sup>, 2005. Properly completed renewal forms and fees must be returned to the Commission office, no later than June 15<sup>th</sup>, 2005, in order for licence renewals to be processed without lapsing on June 30<sup>th</sup>.

Renewal invoices and forms were sent out in early May. If you do not have these forms, please contact Pam Crane, the Commission's Licensing Officer. Also, please note that the renewal forms are double-sided and both sides must be completed or the form will be returned.

**Course Completions** – The 2004-2005 Licensing Cycle is coming to an end on June 30<sup>th</sup>, 2005. Licensees must ensure they have completed the necessary course requirements if they wish their licence to be renewed on July 1<sup>st</sup>. Should any licensees fail to complete the required courses, their licence will not be renewed and they will not be able to trade in real estate until the courses have been completed and the Commission has issued a licence renewal. Every year there are 25-35 licensees that fail to meet this requirement and are not renewed. Please don't let that be you!

**Commission Appointments** – The following appointments as Commissioners were made effective May 1<sup>st</sup>, 2005:

Gus Wedderburn	Public Appointment	3 year term
Mary MacDonald	NSAR Appointment	3 year term
Charles Pace	NSAR Appointment	2 year term
		(finishing out Robert Wambolt's term)

At the May 12<sup>th</sup> Commission meeting, the Commissioners elected the following people to serve:

Commission Chair	Neil Black	Broker
Vice-Chair	Howard Oakey	Public Member

**Service Reminder** – Licensees are reminded that all licensing issues and renewals are dealt with through the Commission office. All NSAR issues must be carried out directly with NSAR. Any payments for both organizations must be made separately. A single cheque covering invoices or billings from both NSAR and the Commission cannot be processed.

Changes to information or termination of licence and/or membership must be sent to both organizations as appropriate. Sending notice to NSAR canceling membership does not terminate a licence. A Notice of Termination must be submitted to the Commission in that case.

**Brokers/Managers – Please share this information with your salespeople.**

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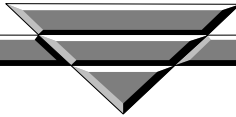
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April 19, 2005

## Commission News

**Errors & Omissions Insurance** – The Commission has postponed the requirement for licensees to have Errors & Omissions Insurance by July 1<sup>st</sup>, 2005. Originally, the Commission had expected it would be possible for an E & O Program to be in place by July 1<sup>st</sup>, but that was based on a decision having been made by February 2005. The Commissioners felt it necessary to postpone the mandatory requirement for E&O Insurance to allow the Association and licensees more time. A new date for coverage to be mandatory will be announced once a program has been selected and a start-up date has been confirmed.

All brokers are encouraged to attend the NSAR Broker Meeting at 11:00 AM, Wednesday April 27<sup>th</sup>, in the NSAR Auditorium at 7 Scarfe Court. This is a significant issue for the real estate industry and input and participation by brokers is important.

**Home Inspections** – The Commission has received several complaints recently from sellers upset with the condition their property is left in after a home inspection.

The main issues are:

- not putting items back as they were found prior to the inspection
- not closing doors and closets
- leaving pets loose in the house when they had been left confined to a specific area
- either letting pets in or out of the house
- allowing dirt to be tracked through the house
- not resetting lights and heat to the status they had before the inspection
- not properly securing the house after the inspection is completed

In addition to these issues, some licensees are allowing inspectors to attach stickers or other labels/cards to furnaces, electrical services, etc. without the permission of the seller. Please remember, the inspection is done as a service to the buyer and the property should be left exactly as it was found. Some sellers do not appreciate the inspector leaving behind anything or damaging any property while carrying out the inspection. It is the buyer's agent's responsibility to ensure the property is left as they found it, as the agent is the person providing access to the property for inspection purposes only.

**Inappropriate Contact** – Buyers and sellers sometimes decide to work with a salesperson other than the one with whom they may first have made contact. Should you have had contact with, or been working with, a consumer and they decide to go with a different salesperson or brokerage, then you should respect their decision and let it go. An example may be a homeowner that you had previously sold a property to or that you had been having discussions with, who decides to list with another brokerage/salesperson. Once they have listed their property with the other brokerage, you should not initiate any further contact with them. There have been several instances where the first salesperson has felt rebuffed or mislead and contacted the seller and made inappropriate comments. This is both unprofessional and contrary to the Commission's Code of Conduct.

**Brokers/Managers – Please share this information with your salespeople.**



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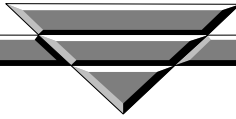
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March 28, 2005

## **Commission News**

**Commission Annual General Meeting**– The meeting on Thursday, March 24<sup>th</sup>, was attended by approximately 75 licensees. Eldon Chaisson, of RE/MAX Nova, was elected to serve a second three year term as a Commissioner. It was also announced that Mary MacDonald, of Walt MacDonald Real Estate in Liverpool, and Charles Pace of Harbourside Realty of Halifax, were appointed by NSAR to serve as Commissioners. Mary replaces Paul Doucet, who is finishing his second three year term, and Charles replaces Robert Wambolt, who is finishing his fourth year as a Commissioner. The new terms are all effective May 1<sup>st</sup>, 2005. Plaques were presented to Paul Doucet, outgoing Chair, Kent Noseworthy, a Public Appointee, and Robert Wambolt who was an Association appointment. A gift was also presented to Paul for his three years service as Chair.

**Annual Licence Renewals** – The Commission will be sending out the usual renewal notices and invoices early in May. In April, the Commission will send out Continuing Education reminders to brokers. All licensees should check to make sure they have either completed or have registered for the required courses. Please do not leave course registration until the last minute, as selection and availability will be limited. Licensees can check their own course registrations and completions by going to the NSAR website and checking the course information on their personal profile.

**Commission / Association Liaison Committee Meeting Summary** – The NSAR/NSREC Liaison Committee met on February 23, 2005. This committee is made up of the Executive Committee of both organizations and the senior staff person from each. The topics discussed were:

*Errors & Omissions Insurance* – The NSAR presented its concerns to the NSREC representatives and a good discussion took place. The NSREC representatives indicated they would take the issues back to their meeting, the next day, and would provide the NSAR with a formal response.

*Agency Task Force* – The NSAR presented the NSREC with an initial position paper. The NSAR Executive Committee expressed that, overall, they were supportive of the recommendations in the Agency Task Force Report, but wished to gather more information, consult with their members and have more time for preparation. The most immediate issue that concerned the NSAR Executive Committee was the proposed timeline. The NSREC indicated that the timeline will have to change should there be components of the rollout that cannot be accomplished within the proposed timeline. The NSREC welcomed any future discussion with and feedback from the NSAR.

*Miscellaneous Issues* – Discussions took place regarding several situations that involved possible trading activities by unlicensed individuals or companies.

The meeting gave an opportunity for good dialogue on a number of different issues.

**Brokers/Managers – Please share this information with your salespeople.**

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1-800-390-1016

March 16, 2005

## Commission News

**Commission Annual General Meeting** – All licensees are invited to attend the Commission's AGM. It is an opportunity to ask questions or pass on comments. Please note that the meeting will be held:

**Thursday, March 24<sup>th</sup> – 1:00 – 2:30PM**  
**NSAR Auditorium**  
**7 Scarfe Court, Dartmouth**

**Errors & Omissions Insurance** – The Commission would like to thank all those licensees that took the time to respond on this issue. There were many different responses and the Commissioners discussed the issues in detail at their February 24<sup>th</sup> meeting. Discussions with NSAR are ongoing.

**Attendance of Buyer's Agent at Home Inspections** – The Commission was requested to clarify a policy on what was expected of the Buyer's Agent on this issue. The Commissioners had a lengthy discussion and confirmed the following policy.

The Buyer's Agent should be present, for the following reasons:

- The inspection clause in the Purchase & Sale Agreement is for the buyer's benefit, not the seller's.
- Inspectors do not necessarily have access to the property. If the seller is not home or available to provide access to the property, then the Buyer's Agent would logically be the person to provide access.
- Problems and issues often arise during an inspection. If the Buyer's Agent is not present during the inspection, then the Agent cannot speak first hand to the issues.
- Should the seller agree to the buyer(s) and their inspector(s) having access to the property without the Buyer's Agent being present, then that would be acceptable.

In summary, Buyers' Agents should be present with their buyers when inspections are carried out, unless the seller or seller's agent has given permission, in writing, that the inspector and buyers can access the property without the Buyer's Agent being present.

**Use Of P&S Vacant Land Forms** – The Commission received several requests for clarification on whether or not the Vacant Land Form (105) is mandatory for use whenever vacant land is being negotiated. The Commissioners have confirmed that Form 105 is mandatory. The Commissioners recognize that some clauses in the form do not apply to every land transaction or even to some areas, but the overriding factor is the protection of the consumer. In using this form, some clauses may be deleted by striking out the clause and having the deletion initialed by all parties. By doing this, the agreement is transparent, as it is assumed that discussion has taken place if a clause is deleted and the parties are in agreement. Should you have any suggestions to improve this form, or any others, please forward your comments to the Commission or the Standard Forms Committee of NSAR.

**Brokers/Managers – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

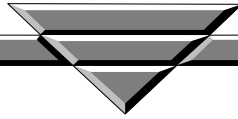
Fax # 902-468-1016

#68

1-800-390-1015

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1-800-390-1016



March 9, 2005

## **Commission News**

**Commission Annual General Meeting** – All licensees are invited to attend the Commission's AGM. It is an opportunity to ask questions or pass on comments. Please note that the meeting will be held:

**Thursday, March 24<sup>th</sup> – 1:00 – 2:30PM**  
**NSAR Auditorium**  
**7 Scarfe Court, Dartmouth**

**Nominations for Commissioners** – The Commission received two nominations for a three year term as a Commissioner. The position that has come up is currently filled by Eldon Chaisson, serving his first two-year term. The two people nominated are William (Bill) Black, North Sydney, and Eldon Chaisson of Halifax. A ballot election will held at the Commission's AGM. If you are unable to attend, you should ensure that your proxy is passed on to someone who will be attending.

**Annual Reports and Proxies** – Full size and abbreviated versions of the Commission's Annual Report are being distributed to all brokerages this week. Proxies for the vote for a Commissioner will also be included. If by chance you have not received your copies by this Friday, please contact the Commission office. If you are planning to give your proxy to another licensee, it would speed up the process for registration at the Annual Meeting if you fax the proxy in to the Commission office ahead of time. The full 2004 Annual Report and proxy form is now available on the Commission website at [www.nsrec.ns.ca](http://www.nsrec.ns.ca) under Publications / Annual Reports.

**Discipline Decisions** – Attached to this notice is a summary of discipline decisions that are required to be published to all licensees in Nova Scotia. The Commission does not publish any discipline decisions that result in a fine under \$300. The information is also posted on the Commission's website for a one month period.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

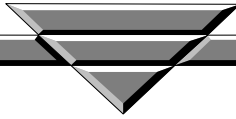
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#67

1-800-390-1015

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1-800-390-1016



January 31, 2005

## Commission News

**Presentations on the National Agency Task Force Report** – The Registrar, Doug Dixon, will be traveling throughout Nova Scotia to present an overview of the Agency Task Force Report. The Report is the result of a national study by a Task Force appointed by the Canadian Regulators Group to study the existing agency relationships and related regulations and to report back with any recommendations the Task Force may have. The Task Force completed its work in June 2004 and the report was circulated to all real estate regulators in Canada in July 2004.

The Task Force Report and several other background documents are available on the Canadian Regulator's website at <http://www.canadianregulators.ca/>. The full report is at the top of the homepage of this site and the related documents are under Publications. It would be advisable to review the Report prior to attending the information session.

The presentations will be carried out as follows:

<b>Halifax</b>	Wednesday	February 2 <sup>nd</sup>	1:00 PM – 4:00 PM	Auditorium, Burnside
<b>Sydney</b>	Wednesday	February 9 <sup>th</sup>	1:00 PM – 4:00 PM	Cambridge Suites, Celtic A
<b>Antigonish</b>	Thursday	February 10 <sup>th</sup>	1:00 PM – 4:00 PM	Maritime Inns & Resorts, Celtic
<b>Bridgewater</b>	Friday	February 11 <sup>th</sup>	9:00 AM – 12:00 PM	Wandlyn Inn, Salon B
<b>Truro</b>	Wednesday	February 16 <sup>th</sup>	1:00 PM – 4:00 PM	Best Western Glengarry, Salon EG
<b>Coldbrook</b>	Thursday	February 17 <sup>th</sup>	9:00 AM – 12:00 PM	Wandlyn Inn, Salon B

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

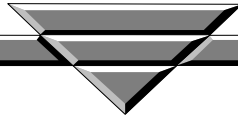
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January 26, 2005

## Commission News

**Annual Meeting of the Commission** – The Annual Meeting will be held on Thursday, March 24<sup>th</sup>, 2004, at 1:00 PM. The meeting will be held in the auditorium of the real estate building at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 PM.

**Election of a Commissioner** – There will be an election for a Commissioner held at the Commission's Annual Meeting on March 24<sup>th</sup>. Information and nomination forms are attached. Nominations must be received no later than Wednesday, February 23<sup>rd</sup>, 2004, at 4:30 PM. If you are interested in putting forward a nomination, but require more information, then please call the Registrar.

**Brokerage Manual Update and Commission Newsletter** – An update for Brokerage Manuals was sent out to all brokerages a couple of weeks ago. It is very important that your brokerage manual is kept up-to-date and current. You do not want to be basing decisions on out-of-date information. The December 2004 Commission Newsletter was also distributed. Please let the Commission office know if you did not receive these publications.

**CPE Courses** – All licensees are reminded that annual CPE requirements must be met by June 30<sup>th</sup>, 2005. The consequence of not completing your courses is that your licence will not be renewed July 1<sup>st</sup> and you will not be able to trade in real estate. With less than six months left, it is strongly recommended that you do not leave this to the last minute. Take the time to get your courses in the winter while business is reasonably quiet. Don't wait until May-June when you are very busy.

**Notices to the Commission** – Licensees are reminded there are many instances when the Commission should be notified of changes. The most common ones are:

### **Brokerage**

- giving notice of opening a branch office
- giving notice of closing a branch office
- sending in copy of terminations within the time requirements

### **Licensees**

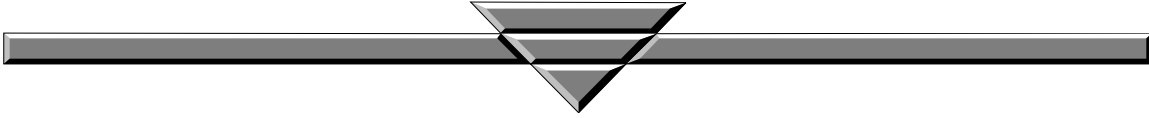
- change of home address
- change of personal contact numbers(phone/cell/pager)
- advising of criminal conviction
- advising of legal actions regarding a real estate transaction

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

7 Scarfe Court  
Dartmouth, N.S.  
B3B 1W4

Phone # 468-3511 or 1-800-390-1015  
Fax # 468-1016 or 1-800-390-1016



## **-Request for Nominations-**

The annual election for a licensee to serve on the Nova Scotia Real Estate Commission will take place on Friday, March 24<sup>th</sup>, 2005, 1:00 PM, in the auditorium of the real estate building at 7 Scarfe Court, Burnside.

Any licensees interested in putting their name forward must complete the attached form and have it signed by ten licensees in order for their name to be placed on the Nomination List.

**Nominations must be received by the Commission office  
no later than Wednesday, February 23<sup>rd</sup>, 2005, at 4:30 PM.**

The election will be for one position on the Commission. The term of the position will be for three years commencing May 1<sup>st</sup>, 2005. The first person to receive 50% plus 1 of the ballots cast will be declared elected.

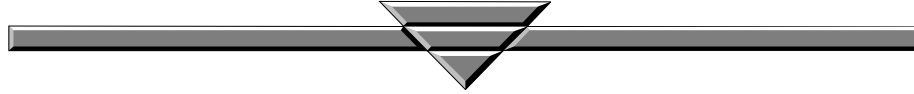
All licensees in good standing are eligible to let their name stand. Those nominated must not have been found guilty of any offence by the Commission, or a Board/Association during the past two years for violation of the Code of Conduct or Professional Standards.

Persons interested in serving should be aware of both the seriousness of this position and the time commitment involved. The licensee elected to the Commission will have to attend five Commission meetings per year and serve on one or more committees of the Commission.

Please feel free to call the Registrar should you have any questions or need more information before you put your name forward.

# -Nomination Form-

## for the NOVA SCOTIA REAL ESTATE COMMISSION



I, \_\_\_\_\_, who is licensed as a \_\_\_\_\_ with the \_\_\_\_\_ Brokerage in the city/town of \_\_\_\_\_ consent to being nominated for election as a Commissioner of the Nova Scotia Real Estate Commission. I have not been found guilty of any offence by the Real Estate Commission or a Real Estate Board/Association during the last two years. If elected, I agree to serve.

\_\_\_\_\_

**Date**

\_\_\_\_\_

**Signature**

The licensees signed below nominate the above licensee for election to the Nova Scotia Real Estate Commission  
*(Must be signed by ten current licensees):*

	Name (Please Print)	Signature	Brokerage
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____

**-Return by mail or fax (468-1016 or 1-800-390-1016) to the Nova Scotia Real Estate Commission-**  
Nominations must be received by the Commission no later than 4:30 PM, February 23, 2005.

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

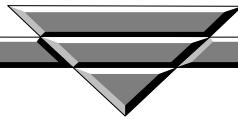
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1-800-390-1015

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1-800-390-1016



January 25, 2005

## Commission News

**Presentations on the National Agency Task Force Report** – The Registrar, Doug Dixon, will be traveling throughout Nova Scotia to present an overview of the Agency Task Force Report. The Report is the result of a national study by a Task Force appointed by the Canadian Regulators Group to study the existing agency relationships and related regulations and to report back with any recommendations the Task Force may have. The Task Force completed its work in June 2004 and the report was circulated to all real estate regulators in Canada in July 2004.

The Task Force Report and several other background documents are available on the Canadian Regulator's website at <http://www.canadianregulators.ca/>. The full report is at the top of the homepage of this site and the related documents are under Publications. It would be advisable to review the Report prior to attending the information session.

The presentations will be carried out as follows:

Yarmouth	Tuesday	February 1 <sup>st</sup>	9:00 AM – 12:00 PM	Rodd's Grand Hotel, Digby Room
Halifax	Wednesday	February 2 <sup>nd</sup>	1:00 PM – 4:00 PM	Auditorium, Burnside
Sydney	Wednesday	February 9 <sup>th</sup>	1:00 PM – 4:00 PM	Cambridge Suites, Celtic A
Antigonish	Thursday	February 10 <sup>th</sup>	1:00 PM – 4:00 PM	Maritime Inns & Resorts, Celtic
Bridgewater	Friday	February 11 <sup>th</sup>	9:00 AM – 12:00 PM	Wandlyn Inn, Salon B
Truro	Wednesday	February 16 <sup>th</sup>	1:00 PM – 4:00 PM	Best Western Glengarry, Salon EG
Coldbrook	Thursday	February 17 <sup>th</sup>	9:00 AM – 12:00 PM	Wandlyn Inn, Salon B

**Brokers/Managers – Please share this information with your Salespeople**



# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

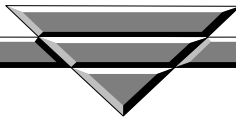
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#64

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1-800-390-1016



December 16, 2004

## Commission News

**Commission Holiday Office Hours** – The Commission office will be closed as follows:

- At noon on Friday, December 24<sup>th</sup>
- Monday and Tuesday, December 27<sup>th</sup> and 28<sup>th</sup>
- At noon on Friday December 31<sup>st</sup>
- Monday, January 3<sup>rd</sup>

**New Licence Fees Effective January 1, 2005** – The renewal fees for all categories of licence in 2005 will be \$145. The licence fees for new applications effective January 1, 2005, are as follows:

Brokerage	\$300	Managing Associate Broker	\$250
Branch Office	\$145	Associate Broker / Salesperson	\$200
Broker	\$300		

**Trust and Brokerage Audits** – Brokers please note, there is no requirement for brokerages to have an accountant complete a trust audit for 2004. The Commission will be contacting all brokerages and arranging a time for a Commission auditor to carryout the trust account audit of your brokerage. A letter will be sent to each brokerage approximately one month before the audit, with a follow up call approximately two weeks later to confirm the date.

**Errors & Omissions Insurance** – *A reminder that the E&O Survey sent out by the Commission two weeks ago is due by Friday, December 17<sup>th</sup>. There are still 80 brokerages that have not responded.*

A presentation has been arranged for January 20<sup>th</sup> when both Alberta and Manitoba representatives will present an overview of the self insured plans operating in those provinces. The Board of Directors of both NSREC and NSAR will be there to hear the details of the programs. All brokers are invited to attend and to ask questions or make observations. The Commission will be deciding no later than the end of January on the details of how the Errors & Omissions Insurance program would be implemented. It is hoped that a program can be in place by the July 1<sup>st</sup>, 2005, licence renewal.

**Information Article – Changing An Agency Relationship** – Attached is an article that was printed in the December 2004 edition of a newsletter published by the Real Estate Errors and Omissions Insurance Corporation of British Columbia. The author is Greg Blanchard of Whitelaw Twining. It gives an overview of an interesting tangle of agency relationships and a court case that followed.

**Notice of Termination** – Brokers and other licensees are reminded that the Commission requires all Notices of Termination to be sent to the Commission within 48 hours of the termination. You are also reminded, that if you are a member of NSAR, a separate notice must be sent to the Association as well.

**Brokers/Managers – Please share this information with your Salespeople**

# Changing an Agency Relationship

GREG BLANCHARD, WHITELAW TWINING

The question of what type of agency relationship exists between a licensee and client is determined by the facts of each situation. The recent B.C. Supreme Court decision of *Lee Estate v. Royal Pacific Realty Corp.* [2003] B.C.J. No. 1393 illustrates this point. In this lawsuit, the purchaser of a bowling business brought an action against the agency and its salesperson, C, for damages for breaches of fiduciary duty, confidence, statutory duty and contract as well as negligence and negligent misrepresentation.

In early 1998 the Plaintiff contacted C to obtain information about businesses for sale. The Plaintiff signed an Exclusive Buyer's Agent Contract with C. The Plaintiff was interested in a bowling business and the seller of that business requested that C provide him with a resume supplied by the Plaintiff. The seller told C that he was willing to sell the bowling business for \$15,000,000. C was told by the seller that it would grant the agency and C an exclusive listing.

The Plaintiff informed C that he was interested in pursuing the purchase of the business but that he had consulted another licensee, T, and he wanted T to represent him in the transaction. T advised the Plaintiff to offer \$11,000,000 as an opening offer. C prepared the offer and transmitted it to the seller. Shortly thereafter, C and the seller signed an Exclusive Listing Agreement. The Plaintiff signed a Limited Dual Agency Agreement with C and the agency about the same time.

C received and delivered several counteroffers back and forth between the parties until a purchase price of \$12,600,000 was finally agreed upon, with the transaction completing in the spring of 1999.

In the lawsuit the Plaintiff claimed that the agency and C had breached their fiduciary duty owing to the Plaintiff by passing on certain confidential and commercially sensitive information about the Plaintiff. The Plaintiff also alleged that the Defendants failed to disclose the true nature of their relationship with the seller, as well as certain communications made to the seller.

The Judge first examined the nature of the relationship between the parties. She found that the Defendants were bound by the terms of the Exclusive Buyer's Agent Contract until the Plaintiff indicated that he wished to use the services of T in the transaction. This amounted to a repudiation by the Plaintiff of the Exclusive Buyer's Agent Contract. C, by agreeing that T could represent the Plaintiff, and that he would share the commission with T, had communicated acceptance of the repudiation to the Plaintiff. The Judge held that any duties which bound C under the Exclusive Buyer's Agent Contract came to an end at that point.

The Judge did, however, state that after the Plaintiff and the Defendants had entered into a Limited Dual Agency Agreement, they were bound by its terms. The Judge also decided that there was no fiduciary relationship existing between the Plaintiffs, the agency and C. The evidence indicated a lack of trust and confidence in the Defendants by the Plaintiff, who did not rely on them. Evidence disclosed that the Plaintiff was a sophisticated businessman who sought and relied upon the advice of a number of people. The Plaintiff particularly used the advice of T in this deal and told T that he was looking to T, not C, to look after him. The Judge noted that while a real estate licensee/client relationship is in law presumed to be fiduciary in nature, this presumption can be rebutted. As to the allegation that the Defendants disclosed confidential information to the seller, the Judge found that the information was requested by the seller and authorized by the Plaintiff to be disclosed to the seller.

This action was complex and it included a number of sub-issues, all arising from the alleged duties owed by the Defendants to the Plaintiff. On the evidence, the Court found that while the Plaintiff had established certain duties owing by the Defendants, it did not establish that there was a fiduciary duty existing between the parties or that the Defendants had breached any of the other duties owing by them to the Plaintiff. The duties owing by the Defendants when they were exclusive buyer's agents ended when that contract of agency ceased.

It is probable that C suffered considerable stress throughout this litigation. Moreover, he would have had to commit an inordinate amount of time to the successful defence. This case serves as an example to all licensees to make sure that the agency relationships that exist between them and their clients are committed to writing and clearly understood by the parties. If there is a material change in the agency relationship in the course of a transaction, it is incumbent upon the licensee to disclose that change to the parties in writing.

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

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#63

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016

November 26, 2004

## Commission News

**National Agency Task Force Report** – The Canadian Regulators Work Group (CRG) initiated a project, over two years ago, to look at the current state of agency relationships in the real estate industry and to look at making recommendations on a national basis. The CRG appointed an Agency Task Force (ATF) to carry out this task. The outcomes the Agency Task Force aimed for were as follows:

- a) a Report on Current Issues, Agency Law and Real Estate Brokerage in Canada,
- b) a Report on Current Industry Practices and Regulatory Approaches to Real Estate Agency Issues Across Canada,
- c) a Recommended Approach to Real Estate Agency Issues for Regulators in Canada,
- d) recommendations for Real Estate Licensing Education Programs (related to the topic of agency and industry practices),
- e) an Information Article or Brochure (Guidelines) on Agency for Real Estate Licensees,
- f) an Information Article or Brochure on Agency for Consumers.

The ATF has completed most of these items. There are three extensive papers on items a & b above that were done by Professor W. Foster and are located at the CRG website, <http://www.canadianregulators.ca>, under Publications. The main document that resulted from the work of the ATF, was the **Report of the Agency Task Force**, that covers item c above, as well as laying the groundwork for items d-f. The report is available at the Commission's website at [www.nsrec.ns.ca](http://www.nsrec.ns.ca), under Publications/Miscellaneous. The report is very extensive and offers 16 recommendations. The report is for information purposes and each jurisdiction must decide what portions, if any, of the recommendations to enact in their jurisdiction.

The Nova Scotia Real Estate Commission has been reviewing the report in great detail and has had extensive discussions. The next main step will be for the Commission and NSAR to discuss the issues the report contains, as well as the Commission giving presentations to licensees. It is expected that these presentations will take place in February.

For those licensees interested in seeing a very detailed evaluation of agency relationships in real estate, you will find these documents interesting. Should you have any questions on the report or the other papers, please feel free to contact the Registrar.

**Errors & Omissions Insurance** – Attached to this Commission News are five pages of an Errors & Omissions Survey. Brokers are required to complete and return the survey to the Commission by December 17, 2004. Should you have any questions on the survey, please contact the Registrar.

**Brokers/Managers – Please share this information with your Salespeople**

# Errors & Omissions Survey

Nova Scotia Real Estate Commission



The Nova Scotia Real Estate Commission has been looking at the issue of Errors & Omissions Insurance for real estate brokerages and licensees in Nova Scotia. The Nova Scotia Association of REALTORS has also been working on this issue. The Commission is currently considering putting in a mandatory Errors & Omissions Program for all licensees.

In order for the Commission to move forward with this issue it is necessary that the attached survey/questionnaire be completed and returned to the Commission by December 17, 2004. **All brokers are required to complete and return this survey.**

The Commission apologizes for what appears to be a duplication of efforts as the Association has already sent out a survey to its members. The attached survey requires additional information. Should you have completed the survey for NSAR, you may be able to use some of that information in the completion of the attached document.

The information being reported by you on this survey is for statistical purposes to allow for the Commission and other parties to make informed decisions on various aspects of instituting an Errors & Omissions Program for Nova Scotia licensees. The information will not be used by the Commission for any other purposes.

**Please complete the survey and return to the Commission by mail or fax, no later than December 17<sup>th</sup>, 2004.** Should you have any questions regarding this survey, please contact the Registrar, Doug Dixon, at the number below.

Nova Scotia Real Estate Commission  
7 Scarfe Court, Suite 200  
Dartmouth, NS B34B 1W4

**Phone: 468-3511 or 1-800-390-1015**  
**Fax: 468-1016 or 1-800-390-1016**

# Errors & Omissions Survey

Nova Scotia Real Estate Commission



Name of Brokerage: \_\_\_\_\_

Name of Person Completing this Report: \_\_\_\_\_

## Current Coverage

1. Does your brokerage currently carry Errors & Omissions Insurance? **Yes** \_\_ **No** \_\_

*If you answered Yes, please complete the rest of this section.*

2. What is the annual premium for the brokerage portion? \_\_\_\_\_

3. What is the annual premium for each licensee? \_\_\_\_\_

4. What is the deductible amount for each claim paid? \_\_\_\_\_

5. What is the deductible for a second claim resulting in payment? \_\_\_\_\_

6. What is the time frame for a higher deductible to be applicable on a second claim? \_\_\_\_\_

6. What is your maximum coverage per claim? \_\_\_\_\_

7. What is the maximum coverage for each claim if two or more licensees from your brokerage are involved representing different parties in the transaction? \_\_\_\_\_

8. What is your maximum coverage (aggregate) for all claims in One year? \_\_\_\_\_

9. Does your plan cover all legal and defense fees? **Yes** \_\_ **No** \_\_

10. Does your insurer cover claims prior to the coverage period of your policy? **Yes** \_\_ **No** \_\_

If Yes, what are the limitations of coverage?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. If the brokerage ceases to operate and the salesperson gets licensed with another brokerage, do the salespeople have coverage on the transactions completed with the previous brokerage? **Yes** \_\_ **No** \_\_

## **Claim History**

This section details any claims that have been made against your brokerage, whether or not a claim was actually paid. The answers to this section should include any situations that have taken place in the last five years, **back to January 1999**.

1. Have you ever had any claims made against your brokerage or a representative of your brokerage? **Yes** \_\_ **No** \_\_

*If you answered Yes, please complete the rest of this section.*

2. How many of those claims did not result in any further action? \_\_\_\_\_
3. How many claims resulted in a settlement or court action? \_\_\_\_\_
4. Have you ever had a claim that was denied by your E&O Insurer? **Yes** \_\_ **No** \_\_

For each claim, please complete the next page. If there is more than one claim, please complete a separate sheet for each claim.

## Claim Detail

1. Month and year of the claim: \_\_\_\_\_ / \_\_\_\_\_

2. Category of the claim:

- Residential
- Condominium
- Vacant Land
- Farm
- Commercial
- Property Management
- Other: \_\_\_\_\_

3. Type of claim (check all that may apply):

- Allegation of fraud on the part of the salesperson
- Allegation of improper completion of documents
- Alleged structural defect with the property
- Breach of fiduciary duty (agency)
- Failure of buyer's agent to provide proper advice
- Misrepresentation of material fact(s)
- Misrepresentation of Property taxes
- Misrepresentation of square footage
- Negligent recommendation of an expert
- Other (please provide details)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Date claim was brought to the attention of the salesperson/brokerage: \_\_\_\_\_

5. Was this claim reported to the Errors & Omissions insurer? \_\_\_\_\_

6. What was the approximate amount of the claim? \$ \_\_\_\_\_

7. Was a lawyer retained to defend the claim? **Yes** \_\_ **No** \_\_

8. Did the matter proceed to court? **Yes** \_\_ **No** \_\_

9. Was a loss or settlement paid? **Yes** \_\_ **No** \_\_

10. If Yes, what was the amount? \$ \_\_\_\_\_

11. Was a deductible payment applied to the licensee/brokerage? **Yes** \_\_ **No** \_\_

12. If yes, how much? \$ \_\_\_\_\_

# **Errors & Omissions Survey**

Nova Scotia Real Estate Commission



Brokerage Name: \_\_\_\_\_

I, \_\_\_\_\_ herby certify that the information contained  
(Name of Broker)

in this survey /questionnaire is to the best of my knowledge, information and belief true.

Date: \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_\_

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Broker's Signature)



# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

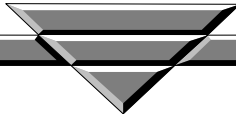
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1-800-390-1016



October 27, 2004

## Commission News

**Commercial Brokerages – Proposed Agency Changes** – All brokers and salespeople involved in commercial transactions are invited to a presentation on Tuesday, November 2<sup>nd</sup>, 2004. It will be held in the auditorium at 7 Scarfe Court, Burnside, running from 9:00 AM to 12:00 PM.

The presentation will give an overview on the recommendations made by a national Agency Task Force (ATF) on behalf of the Canadian Regulators Group. The recommendations include some changes to agency as it is currently practiced today. The recommendations by the ATF are currently being considered by the Nova Scotia Real Estate Commission. Your feedback would be an important part of the Commission's process in deciding what to implement.

**Advertising** – Over the last couple of years there has been a trend in real estate advertising where the brokerage name has been shrinking and the licensee's name is getting larger and larger. The Commission does not specify the ratio in size that must be maintained between the brokerage name and the licensee's name, as many jurisdictions do. The Commission's standard is that in all real estate advertising the brokerage name must be clearly identifiable in the advertising. A reader should not have to search for the company the salesperson is affiliated with. This applies to print, television, flyers, For Sale signs, billboards, subdivision signs and any other types of advertising carried out by licensees.

The Commission normally sends out a warning letter when this guideline is breached. Should a licensee continue to advertise without clearly identifying the brokerage, a disciplinary action may follow.

**Inspection Clause**– The standard inspection clause in Purchase and Sale Agreements is designed to be balanced in how it protects both buyers and sellers in a transaction. It was designed to deal with significant issues that may be identified as a result of a property inspection. When a serious issue is discovered, it gives an opportunity for the buyer to raise an objection. The buyer may make a proposal to the seller to have the problem corrected or adjust the sale price, or the buyer may terminate the agreement. The seller, on the other hand, may agree to correcting the problem or adjusting the sale price. The seller may also decide to terminate the agreement. This has caused concern for some licensees, especially when the buyer is not raising serious issues, but minor ones that were identifiable prior to the inspection, but wishes to put pressure on the seller and negotiate a better price. The stakes are high in a situation like this, as the seller could simply terminate the agreement, which happened often in the seller's market over the past two years.

Licensees should always fully explain all the clauses in agreements prior to the buyers and sellers moving forward. In addition, the ramifications of what could happen should be explained to sellers and buyers before amendments are made or clauses are exercised. The results may not be what the buyer or seller intended or hoped for.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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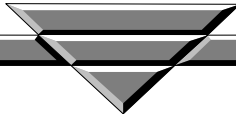
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October 20, 2004

## Commission News

**Commercial Brokerages – Proposed Agency Changes** – All brokers and salespeople involved in commercial transactions are invited to a presentation on November 2<sup>nd</sup>, 2004. It will be held in the auditorium at 7 Scarfe Court, Burnside.

The presentation will give an overview on the recommendations made by a national Agency Task Force (ATF) on behalf of the Canadian Regulators Group. The recommendations include some changes to agency as it is currently practiced today. The recommendations by the ATF are currently being considered by the Nova Scotia Real Estate Commission. Your feedback would be an important part of the Commission's process in deciding what to implement.

**Education Award** – Nova Scotia has won the Pre-Licensing Education Award from ARELLO (Association of Real Estate Licensing Law Officials) at the ARELLO Conference in Pittsburgh earlier this month. Congratulations to NSAR for a job well done. Nova Scotia was recognized for the new Salesperson Licensing Course that was implemented in January 2003.

**Incentives** – Brokers and salespeople are reminded that the Commission does not allow individual licensees to advertise or offer incentives. Only the brokerage is allowed to offer incentives as part of the brokerage's marketing program. By-Law 716 stipulates:

- (a) *An incentive, inducement or gift cannot be money or a sharing of commissions or remuneration.*
- (b) *A Broker, Associate Broker or Salesperson must not, directly or indirectly, advertise, communicate or offer to any person an incentive except an incentive that is provided by and on behalf of the Brokerage with which they are licensed.*

The Commission has found that a number of licensees have recently been offering incentives as part of their personal marketing program. This is not permitted.

**Offer to be Presented and Listing Agent is not Available** – Licensees are cautioned to ensure that they have arranged for another licensee at their brokerage to cover off their business should they be away or even if they are not going to be available or in contact with their office for a period of time. Offers must be dealt with in a timely fashion. Over the last three years there has been a much more aggressive market and time frames for offers, in many cases, have been kept short. Brokerages should have a policy in place to deal with offers should the listing salesperson not be available.

**November 11<sup>th</sup>** – Licensees are reminded that offices must be closed and open houses cannot be held on Remembrance Day, Thursday November 11th. The Commission office will be closed that day as well.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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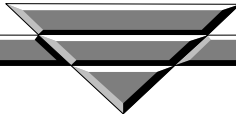
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July 14, 2004

## Commission News

**Licence Renewals** – The Licensees listed below have completed their annual CPE requirements. Their licences have been renewed and they are now able to trade in real estate on behalf of their brokerage.

**Terminations** – Brokers are reminded that Termination of Licence forms must be sent whenever a licensee leaves your brokerage. This includes at the end of the licensing cycle when some licences are not renewed. The Commission needs to know that that licensee is not being renewed and the reason why the licence is not being renewed. When renewals were processed this spring, there were a number of terminations that had taken place earlier in the year, but the Commission was not notified. There is an administrative penalty when this occurs. Brokers should also note that simply notifying the Association or local board is not sufficient.

Another important reason for making sure the termination has taken place, which only happens once the Registrar has been notified, is that it terminates liability for ongoing actions of the licensee. If the Commission has not been notified of a termination and the licensee continues to be involved in trading, the brokerage holding that licence will also continue to be liable for that person's actions.

**WRONG NUMBER!** – The Commission frequently receives calls from licensees regarding problems being experienced with the MLS<sup>®</sup> service or course registrations. These are functions of NSAR and the calls should be directed to the appropriate department of NSAR. Switchboard functions and telephone service for the Commission and the Association are completely separate, so it is important that you call the right number.

**Charge It** – The Commission often gets requests from licensees to “charge” fees to their account. The Commission does not maintain an account for either brokerages or individuals. All fees are due when the licensing changes are made. Members of NSAR often get their Association account confused with the Commission.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

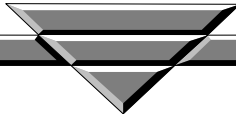
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July 6, 2004

## Commission News

**Licence Renewals** – Listed below are licensees that have been re-instated. A large number of the licensees that were shown as not having completed their annual CPE requirements had actually completed the necessary education through outside sources, but had not applied to NSAR for an equivalency credit. It is very important that licensees who take a non-NSAR course make application for an equivalency credit or they will be reported to the Commission as not completing their CPE, resulting in their licence not being renewed. All licensees can go to the NSAR website and view their own education records, either to confirm they have credit for what they have completed, or to check on what they require.

There were also a few licensees listed as not having their licence renewed by their brokerage. This error was as a result of a misunderstanding by the Registrar. The Registrar apologizes for the publication of those names of licensees as not being renewed, when in fact they were properly renewed by their brokerage.

**Make-up Courses** – Two courses are being run by the NSAR next week for those licensees that have not had their licences renewed due to CPE courses not being completed. Please contact the Association directly to register for these courses. No other courses will be available until September.

Elective	Complaints & Solutions	July 12 <sup>th</sup>	9:00 AM – 12:00 PM	\$187.95
Mandatory		July 13 <sup>th</sup>	9:00 AM – 4:00 PM	\$260.25

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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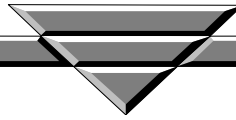
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July 2, 2004

## Commission News

**End of 03-04 Licensing Cycle** – June 30, 2003 marked the end of the last licensing cycle. All brokerages were required to have their Audits and Financial Reports in by May 1<sup>st</sup> and licence renewals in by June 15<sup>th</sup>. All licensees were required to have their CPE courses completed by June 30<sup>th</sup>. Attached is a list of brokerages and individuals whose licences have not been renewed. This lapse in licensing means that they are not permitted to trade in real estate until the information/fees are provided or courses completed. Some brokerages have closed out and are not renewing.

All other licensees that have complied have been renewed. The actual licences and wallet cards are expected to be distributed to brokerages by July 15<sup>th</sup>. The status of whether or not a person or brokerage is licensed is determined by the Registrar of the Commission and not by holding an actual paper licence.

**New Licensing Cycle** – July 1<sup>st</sup> marked the beginning of the next licensing cycle, which runs through to June 30, 2005. The Commission has specified that all licensees must complete a six hour mandatory course as well as one three-credit CPE elective course for the next cycle. Licensees who complete a six credit elective course may carry forward three credits to the next licensing cycle. There will be a specific mandatory course for Salespeople and another for Brokers and Associate Brokers.

NSAR is currently preparing the courses for the 2004-2005 licensing cycle. The course schedule will be distributed to all brokerages around the end of August. There will be several new elective courses available in addition to the mandatory courses. The first courses will be run in September. There will not be any courses offered in July-August, as there has been little interest in summer courses in the past.

# NOVA SCOTIA REAL ESTATE COMMISSION

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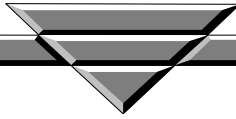
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June 14, 2004

## Commission News

**Licence Renewals** – Brokerages are reminded that all licence renewals are due June 15, 2004. This means that all renewal forms and fees must be received on or postmarked by that date. Late renewals will be assessed a late fee. If renewals are not completed by June 30<sup>th</sup> then the licences will not be renewed and those involved will not be able to trade in real estate until the renewals have been completed.

**CPE Courses** – All licensees are reminded that annual CPE requirements must be met by June 30<sup>th</sup>, 2004. The consequence of not completing your courses is that your licence will not be renewed July 1<sup>st</sup> and you will not be able to trade in real estate.

**Commission Compliance Auditor Position** – The Commission is in the process of hiring a person for the Compliance Auditor position. For those who may be interested in this position or know someone that may have an interest, details are provided below.

### Compliance Auditor Position

The applicant will have the skills necessary to perform field audits of real estate brokerages and assist the Compliance Officer with investigations and complaints. Experience in auditing and bookkeeping / accounting is required. The applicant will be a university graduate with good administrative and interpersonal skills. This is a permanent position with a salary range of \$28,000 - \$32,000 plus benefits and a vehicle.

Qualified candidates should send their letter of application and resume to the address indicated below by **June 18, 2004:**

Registrar  
Nova Scotia Real Estate Commission  
Suite 200, 7 Scarfe Court  
Dartmouth, N.S. B3B 1W4

We thank all applicants for their interest. However, only those selected for an interview will be contacted.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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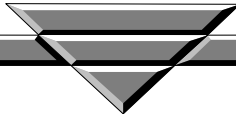
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April 27, 2004

## Commission News

**Trust Account Audits** – Brokerages must have their Trust Account Audit for the 2003 calendar year submitted to the Commission by May 1<sup>st</sup>, 2004, as per the Commission By-Law. As May 1<sup>st</sup> falls on Saturday this year, brokers will have until Monday, May 3<sup>rd</sup>, to deliver the report to the Commission offices. If being sent by mail or courier, the submission must be postmarked not later than May 3<sup>rd</sup>, 2004.

**CPE Courses** – All licensees are reminded that annual CPE requirements must be met by June 30<sup>th</sup>, 2004. The consequence of not completing your courses is that your licence will not be renewed July 1<sup>st</sup> and you will not be able to trade in real estate. With only two months left, it is strongly recommended that you do not leave this to the last minute.

Licensees who have not completed or registered for courses should do so as soon as possible. Many courses, this time of year, fill up early, so don't delay or you will be very limited as to what is available.

**Chester Deed Transfer Tax** – Licensees that trade in properties in the Municipality of Chester should take note that the Municipality has instituted a 1% Deed Transfer Tax, effective May 1<sup>st</sup>, 2004. It is important that buyers be made aware of this new tax.

**Instructions and Signatures** – Licensees should be aware that whenever a legal document is being amended or altered in any way, the signatures of the parties involved are required. In this time of electronic communications, many licensees believe an email is sufficient. It is not. The only way an electronic communication, such as an email, would be valid, is if the email is signed with an identifiable electronic signature. Electronic signatures are not in common use yet.

When amending the terms of a Listing Agreement or a Purchase and Sale Agreement, steps must be taken to get the signatures of the parties.

**Inspectors / Referrals** – Licensees are reminded that whenever they are recommending the services of a third party in a transaction, they should not recommend only one service provider, as per By-Law 702, Article 38. A licensee takes on a high level of liability by recommending only one service provider.

In addition to this, should a licensee receive a referral fee from a service provider, they must disclose this to the client they are working with. Licensees are cautioned that by accepting referral fees from a service provider, such as an inspector, specially if it is a regular occurrence, increases the liability as the connection between the licensee could be seen as more than just referring a good service provider. Is this type of referral really worth the potential problems down the road?

**Brokers/Managers – Please share this information with your Salespeople**

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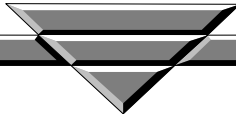
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March 26, 2004

## Commission News

**Commission Election and Appointment** – The Commission is pleased to announce that Valerie Folk has been elected to a second three year term as a Commissioner. Valerie is the broker for Royal LePage Atlantic in Metro. Robert Wambolt, the broker of Coldwell Banker Mary Pat Realty in St. Peters, was appointed by the NSAR Board of Directors to a second term as well. Their new terms start May 1<sup>st</sup>, 2004

**CPE Courses** – All licensees are reminded that annual CPE requirements must be met by June 30<sup>th</sup>, 2004. The consequence of not completing your courses is that your licence will not be renewed July 1<sup>st</sup> and you will not be able to trade in real estate. With only three months left, it is strongly recommended that you do not leave this to the last minute. Take the time to get your courses in while business is reasonably quiet. Don't wait until May-June when you are very busy.

**Business Practices** – Shown here are reminders regarding a number of issues that are recurring problems:

- **Multiple Offers** – You are reminded that if circumstances change when there are multiple offers, you must inform all parties of the changes. For example, if there are initially two competing offers to be presented and each party is aware that they are competing with one other party, then a third offer comes into play, all three parties should be aware that they are competing with two other parties now. Likewise if the parties are aware of how many they are competing with, and one or more parties drops out, then the remaining parties must be made aware of that. If competing parties are not kept informed, and they find out later that circumstances changed and you did not communicate the change, then you are setting yourself up for a complaint.
- **Keys** – Licensees are reminded that keys for a property cannot be given out to buyers prior to a closing being completed, unless the seller or their lawyer has given permission to do so. We deal with numerous complaints where licensees, usually out of courtesy or convenience, provide keys to the buyer, or allow them early access to the property without having permission. By doing so, you are creating a great liability for your seller, your brokerage and yourself.
- **Locking Up Properties** – Please be sure that a property you are showing is properly secured before you leave it. This means checking all doors, not just the one you entered through. It is not uncommon for a client to open other doors during the showing and not properly secure them, without your knowledge. Also, if you opened rooms or closets, turned on lights or other items while there, please return them to the state you found them upon entering. This includes ensuring pets are left in, or out. This seems common sense, but again, we receive many complaints from upset sellers.

**Annual Trust Account Audit and Financial Report for 2003** – Brokers are reminded that these reports must be completed and returned to the Commission, or postmarked, by **May 1, 2004**. This will be the last time brokerages must submit the Annual Trust Account Audit to the Commission.

**Brokers/Managers – Please share this information with your Salespeople**



# NOVA SCOTIA REAL ESTATE COMMISSION

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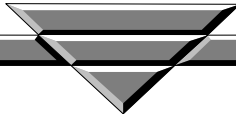
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January 22, 2004

## Commission News

**Annual Meeting of the Commission** – The Annual Meeting will be held on Friday, March 19<sup>th</sup>, 2004, at 1:00 PM. The meeting will be held in the auditorium of the real estate building at 7 Scarfe Court, Burnside. The meeting is not expected to run later than 2:30 PM.

**Election of a Commissioner** – There will be an election for a Commissioner held at the Commission's Annual Meeting on March 19<sup>th</sup>. Information and nomination forms are attached. Nominations must be received no later than Wednesday, February 18<sup>th</sup>, 2004, at 4:30 PM. If you are interested in putting forward a nomination, but require more information, then please call the Registrar.

**Annual Trust Account Audit and Financial Report for 2003** – The forms for both of these items were distributed to all brokerages a couple of weeks ago. Please let the Commission office know if you have not received the forms. Brokers are reminded that these reports must be completed and returned to the Commission, or postmarked, by **May 1, 2004**. This will be the last time brokerages must submit the Annual Trust Account Audit to the Commission.

**Brokerage Manual Update and Commission Newsletter** – An update for Brokerage Manuals was sent out to all brokerages a couple of weeks ago. It is very important that your brokerage manual is kept up-to-date and current. You do not want to be basing decisions on out-of-date information. The January 2004 Commission Newsletter was also distributed. Please let the Commission office know if you did not receive these publications.

**CPE Courses** – All licensees are reminded that annual CPE requirements must be met by June 30<sup>th</sup>, 2004. The consequence of not completing your courses is that your licence will not be renewed July 1<sup>st</sup> and you will not be able to trade in real estate. With less than six months left, it is strongly recommended that you do not leave this to the last minute. Take the time to get your courses in the winter while business is reasonably quiet. Don't wait until May-June when you are very busy.

**Notices to the Commission** – Licensees are reminded there are many instances when the Commission should be notified of changes. The most common ones are:

### **Brokerage**

- giving notice of opening a branch office
- giving notice of closing a branch office
- sending in copy of terminations within the time requirements

### **Licensees**

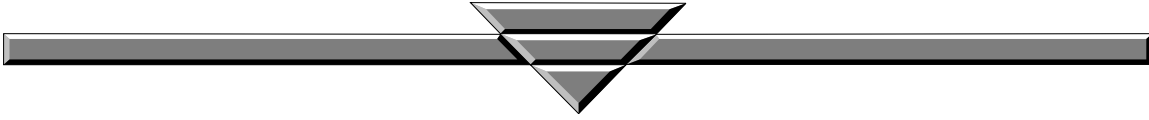
- change of home address
- change of personal contact numbers(phone/cell/pager)
- advising of criminal conviction
- advising of legal actions regarding a real estate transaction

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

7 Scarfe Court  
Dartmouth, N.S.  
B3B 1W4

Phone # 468-3511 or 1-800-390-1015  
Fax # 468-1016 or 1-800-390-1016



## **-Request for Nominations-**

The annual election for a licensee to serve on the Nova Scotia Real Estate Commission will take place on Friday, March 19, 2004, 1:00 PM, in the auditorium of the real estate building at 7 Scarfe Court, Burnside.

Any licensees interested in putting their name forward must complete the attached form and have it signed by ten licensees in order for their name to be placed on the Nomination List.

**Nominations must be received by the Commission office  
no later than Wednesday, February 19th, 2003, at 4:30 PM.**

The election will be for one position on the Commission. The term of the position will be for three years commencing May 1<sup>st</sup>, 2004. The first person to receive 50% plus 1 of the ballots cast will be declared elected.

All licensees in good standing are eligible to let their name stand. Those nominated must not have been found guilty of any offence by the Commission, or a board/association during the past two years for violation of the Code of Conduct or Professional Standards.

Persons interested in serving should be aware of both the seriousness of this position and the time commitment involved. The licensee elected to the Commission will have to attend five Commission meetings per year and serve on one or more committees of the Commission.

Please feel free to call the Registrar should you have any questions or need more information before you put your name forward.



# NOVA SCOTIA REAL ESTATE COMMISSION

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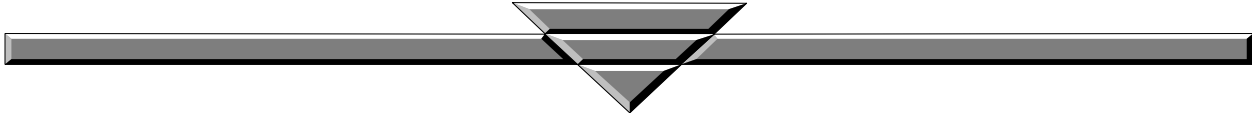
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December 17, 2003

## Commission News

**Commission Holiday Hours** – The Commission offices will close at 12 noon on Wednesday, December 24<sup>th</sup> and reopen on Monday, December 29<sup>th</sup>. The Commission offices will close again at 12 noon on Wednesday, December 31<sup>st</sup> and reopen on Monday, January 5<sup>th</sup>.

**Trust Audits and Brokerage Reviews** – The Commission approved changes to the Trust Account Audit requirements and the Brokerage Review process, effective January 1, 2004. **Brokerages will be required to submit an Accountant's Report and Financial Statement for the calendar year 2003, as in previous years.** The Commission will send out the necessary forms in early January.

The changes approved include the following points:

- Commission staff will conduct annual trust account audits of all brokerages
- Commission staff will conduct Brokerage Reviews on a three year cycle
- A new annual fee has been established that will cover the expenses related to the new audit system (Shown below)
- Brokerages will not have to submit Accountant's Audit Reports for the calendar year 2004 forward

Details of the changes will be provided in early January as part of the update to the Commission By-law and Brokerage Manuals.

**Licensing Fee Changes** – The Commission has found it necessary to increase all new application and renewal licensing fees, effective January 1, 2004. Due to the continued low revenue from the Interest Bearing Trust Accounts and the low return on the Recovery Fund Investments, it was necessary to raise fees to cover the revenue shortfall. All fees will increase an average of \$30, with the new fees shown below. Also shown is the new Brokerage Audit Fee.

### **New Licences**

(a) Brokerage .....	<b>\$260</b>
(b) Broker .....	<b>\$260</b>
(c) Associate Broker designated as a Manager .....	<b>\$230</b>
(d) Associate Broker/Salesperson .....	<b>\$180</b>
(e) Branch Office .....	<b>\$125</b>

**Broker / Manager – Please share this information with your salespeople.**

## Commission News 53

### Renewals

(a) Brokerage .....	\$125
(b) Broker .....	\$125
(c) Associate Broker designated as a Manager .....	\$125
(d) Associate Broker/Salesperson .....	\$125
(e) Branch Office.....	\$125

### Brokerage Audit

Brokerage Audit Fees are determined by the number of licensees registered with a brokerage as of the licence renewal notice sent to each brokerage in May of each year.

(a) 1 - 5 .....	\$220
(b) 6 - 15 .....	\$270
(c) 16 - 25 .....	\$320
(d) 2 6+ .....	\$420

**By-Law Changes for Brokerage Manuals** – Numerous changes, corrections and updates have been made to the Commission By-law. Revisions to the By-Law and updates for the Brokerage Manuals will be distributed to all brokerages in early January. The major changes are as follows:

- Incorporate the necessary changes to implement the new Trust Account Audit and Brokerage Review process
- Implement new By-Law and policies regarding the Electronic Recording & Storage of Financial Information by brokerages
- Implement new By-Law and policies regarding Electronic Fund Transfers by brokerages
- An entire new section on Trust Account Audits and Record Keeping for the Policies & Procedures for the Brokerage Manuals
- Implement a new Internet Advertising and Email section in the Policies & Procedures of the Brokerage Manuals

Brokers should carefully review the revisions and additions to the Brokerage Manual when they are received in early January.

**Commercial Agency Disclosure Brochures** – Commercial licensees are reminded of the requirement for agency to be disclosed in their dealings in either the sale or leasing of properties. Acknowledgement of the disclosure must be maintained in transaction files. A new disclosure brochure will be available through NSAR the first week of January 2004, which will also incorporate wording that complies with Privacy Legislation regarding use of personal information. Please make sure all licensees practicing in this area are aware of these two important disclosure issues.

**Working With A Real Estate Agent Brochure** – A revised edition of both the REALTOR® and Generic versions of this brochure will be available through NSAR the first week of January, 2004. The main revision is the addition of information resulting from Privacy Legislation regarding the use of personal information.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

Fax # 902-468-1016

#52

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016

October 14, 2003

## Commission News

**Amperage Information for Listings** – This note is a follow-up to an earlier notice. Unfortunately, the Commission was not aware that when the MLS systems for much of Nova Scotia changed in August, the requirement to provide amperage was no longer part of the property addendum. However, even with this clarification, it is still important that licensees be very careful about providing information on amperage size of an electrical service for a building. If you are going to tell a buyer what the amperage size is, then please ensure you have taken the appropriate steps to confirm the size of the service. The other option is to not express an opinion of the service size and have the buyer do their due diligence and have the service inspected by someone qualified to do so.

**Mandatory Courses for 2003-2004** – Licensees should take note that there are two different Mandatory Courses for the 2003-2004 licensing cycle. One course is specific to brokers, managing associate brokers, and associate brokers. The other course is specifically for salespeople. Please ensure you register for, and complete the appropriate course.

**Lot Grading/Landscaping** – Licensees involved in new construction should be aware of the differences between lot grading and landscaping, in particular, when it comes time for closing and either of these items are a deficiency. Landscaping generally refers to topsoil and sod. A holdback can usually be easily determined if only landscaping is outstanding. In the case of lot grading, licensees must be very careful when giving advice to buyers. When lots are approved, particularly in HRM, there is a lot grading plan that must be followed and certified in order for the owner to get an Occupancy Permit. This item can involve significant expense should there be a lot of work required to meet the grading requirements. Licensees should ensure they advise their buyer to be fully informed before agreeing to or signing off on a deficiency involving lot grading.

**By-Law Change** – Attached are two new By-Laws approved by the Commissioners at their last Commission meeting. It is By-Law 717 & 718, which cover “Disclosures to Prospective Licensees by a Brokerage”. The By-Law additions are intended to ensure all prospective licensees are fully informed of their obligations prior to them becoming licensed with a brokerage. Please place a copy of the attached page in your brokerage Manual as page G-11.

**Broker / Manager – Please share this information with your salespeople.**

## **Part Seven – Conduct and Trade Practices**

### **Disclosures to Prospective Licensees by a Brokerage**

**717**

All brokerages are required to provide the following disclosures to prospective licensees who are considering being licensed with that brokerage prior to that person making any commitment to that brokerage:

- (a) a copy of the contract, in its entirety, the licensee would be required to sign, if any;
- (b) all expenses the licensee would be required to pay or reimburse during the time they are licensed with that brokerage; and
- (c) all fees, changes in commission splits, or penalties that the licensee would be responsible for when the licensee's licence terminates with that brokerage.

**718**

- (a) The disclosures must be made in writing and receipt thereof acknowledged in writing, prior to engagement of the prospective licensee by the brokerage.
- (b) A prospective licensee shall have a seven day period after execution of the contract to withdraw, without penalty, by giving written notice of the withdrawal to the brokerage.
- (c) It is the responsibility of the brokerage to ensure that the licensee fully understands the terms of the engagement prior to entering into any written agreement.

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September 15, 2003

## Commission News

**Commission Presentations** – The Commission will be holding information sessions in conjunction with the NSAR Regional Meetings this week and next. Approximately the last 20 minutes of the scheduled time NSAR has arranged will be for a general information session by the Commission for all licensees. The Commission is requesting that all brokers and managers remain after the NSAR meeting for a 30 minute presentation and discussion regarding trust account audits and brokerage audits. The Commission wishes to present different options to the brokers and managers and get feedback prior to the Commission having further discussions on this subject.

The meetings for the brokers/managers, which are open to all brokers/managers in Nova Scotia, will be held immediately after the NSAR Regional Meetings. The expected times are:

Cape Breton	October 1 <sup>st</sup>	Cambridge Suites – Sydney	4:00 – 4:30 PM
Highland	October 2 <sup>nd</sup>	Claymore Inn – Antigonish	3:00 – 3:30 PM
Northern NS	October 3 <sup>rd</sup>	Best Western Glengarry – Truro	11:30 AM – 12:00 PM
Halifax Dartmouth	October 6 <sup>th</sup>	NSAR Auditorium – Burnside	11:30 AM – 12:00 PM
South Shore	October 8 <sup>th</sup>	Wandlyn Inn – Bridgewater	12:00 - 12:30 PM

**PCDS Forms** – As a follow-up to the previous bulletin, licensees can certainly give out copies of PCDS forms with the knowledge and permission of their seller. A PCDS is a form of disclosure meant to protect the understandings all parties have with regard to the condition of the property. Normally it would only be of interest to a buyer who is seriously considering making an offer or who has already made an offer. It may not be in the seller's best interest to be handing PCDS forms out to everyone who is simply viewing or enquiring about the property. Listing brokerages should keep in mind they are representing the seller and the seller's best interests. The PCDS was never meant to be a promotional tool.

**Broker / Manager – Please share this information with your salespeople.**



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September 15, 2003

## Commission News

**Commission Presentations** – The Commission will be holding information sessions in conjunction with the NSAR Regional Meetings being held next month. Approximately the last 20 minutes of the scheduled time NSAR has arranged will be for a general information session with NSAR members. The Commission is requesting that all brokers and managers remain after the NSAR meeting for a 30 minute presentation and discussion regarding trust account audits and brokerage audits. The Commission wishes to present different options to the brokers and managers and get feedback prior to the Commission having further discussions on this subject.

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South Shore	October 8 <sup>th</sup>	Wandlyn Inn – Bridgewater	12:00 - 12:30 PM

**PCDS Forms** – It has come to the attention that many licensees are providing copies of completed PCDS forms with highlight sheets being left in homes for sale, as well as being passed out at Open Houses. The use of these forms this way, in both cases, is improper. These forms should only be provided to buyers that are interested in offering on the property and specifically request a copy, or be provided as called for when a Purchase and Sale Agreement is being finalized.

**Property Information Sheets and Amperage** – The amperage of the electrical service of a property is an important piece of information for buyers. It is also one of the most litigated errors by buyers against licensees. Some licensees are under the opinion that if they simply put “TBA” or some other comment under this item that they are off the hook for problems.

Licensees are well advised to do their homework and put the correct information, specifically the actual amperage, on the property information sheets. Leaving this item open to verbal discussions, rather than giving the buyer written information leaves licensees and their sellers open for even more litigation.

**Broker / Manager – Please share this information with your salespeople.**

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August 1, 2003

## **Commission News**

**Licence Reinstatements** – Please note that the licences for the following licensees have been reinstated. They have completed the necessary courses to re-instate their licence.

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**All licensees are reminded that all their course registration/completion information is available on the NSAR website and it can be reviewed at any time. Licensees should ensure that they receive credit for courses by checking their information on the website.**

**New Licensing Cycle** – Please note the current licensing cycle runs from July 1, 2003, to June 30<sup>th</sup>, 2004. Licensees are encouraged to complete their annual course requirements in the fall or through the winter. The course schedule will be distributed by NSAR at the end of August or very early September. Register for courses early-----Why wait for Spring?

**Interfering With Investigations** – From time to time a licensee that is unhappy a complaint has been made against them tries to make a deal with the complainant, or threatens the complainant, in an attempt to have the complaint dropped. Once a complaint has been lodged with the Commission, the investigation can only be cancelled by the Registrar, if it is in the public's best interest to drop it. A licensee can only make the situation worse by trying to force the dropping of a complaint, which may result in charges of interfering with an investigation.

**Broker / Manager – Please share this information with your salespeople.**

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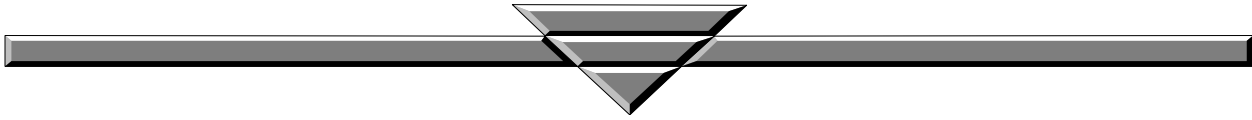
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July 4, 2003

## Commission News

**Licence Corrections** – Please note that the licences for the following licensees have been re-instated. The reason for the cancellation, earlier this week, was due to either a clerical error by NSAR or NSREC or the licensee was missing a course and has since provided evidence of completion of a CPE or an equivalency.

**All licensees are reminded that all their course registration/completion information is available on the NSAR website and it can be reviewed at any time. Licensees should ensure that they receive credit for courses by checking their information on the website.**

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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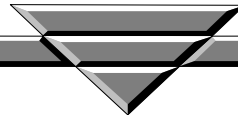
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July 2, 2003

## Commission News

**End of 02-03 Licensing Cycle** – June 30, 2003 marked the end of the last licensing cycle. All brokerages were required to have their Audits and Financial Reports in by May 1<sup>st</sup> and licence renewals in by June 16<sup>th</sup>. All licensees were required to have their CPE courses completed by June 30<sup>th</sup>. Attached is a list of brokerages and individuals whose licences have not been renewed. This lapse in licensing means that they are not permitted to trade in real estate until the information/fees are provided or courses completed.

All other licensees that have complied have been renewed. The actual licences and wallet cards are expected to be distributed to brokerages by July 15<sup>th</sup>. The status of whether or not a person or brokerage is licensed is determined by the Registrar of the Commission and not by an actual paper licence.

**New Licensing Cycle** – July 1<sup>st</sup> marked the beginning of the next licensing cycle, which runs through to June 30, 2004. The Commission has specified that all licensees must complete a six hour mandatory course as well as one three-credit CPE elective course for the next cycle. Licensees who complete a six credit elective course may carry forward three credits to the next licensing cycle. The mandatory course for the next licensing cycle for salespeople will focus primarily on “Ethics”.

NSAR is currently preparing the courses for the 2003-2004 licensing cycle. The course schedule will be distributed to all brokerages around the end of August. There will be several new elective courses available in addition to the mandatory course. The first courses will be run in September. There will not be any courses offered in July-August, as there has been little interest in summer courses in the past.

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June 23, 2003

## Commission News

**End of Licensing Cycle!** - Brokers and licensees are reminded that several items must be completed in order to renew licences as of July 1<sup>st</sup>, 2003.

- Brokerages - 2002 Trust Account Audit must be submitted
- Licensees - CPE courses must be completed
- Renewal forms and fees must be submitted

As of June 23<sup>rd</sup> several brokerages still have not submitted their audits, which were due May 1<sup>st</sup>. Some brokerages have not submitted their renewal forms and fees for the brokerage's licensees, which were due June 16<sup>th</sup>. There are late fees in both of these instances. If the information and fees are not received by June 30<sup>th</sup>, then the brokerage licences will not be renewed.

Also, as of June 23<sup>rd</sup>, there are over 40 licensees missing their Mandatory Course, and a similar number missing an elective CPE course. Should the necessary course requirements not be met by June 30<sup>th</sup>, those licences will not be renewed until the courses have been completed.

Should you have any questions regarding renewals please call Pam Crane, Licensing Officer, at 468-3511 or 1-800-390-1015.

**Professionalism?** - On several licence renewals recently received by the Commission, some licensees have taken their licence renewal very lightly. Filling out jokes or "funny comments" on a licence renewal is very unprofessional conduct. Brokers should be closely reviewing renewal forms prior to them being submitted to the Commission.

**Termination and Re-instatement of Licences** - Brokers are reminded that it is the broker's responsibility to ensure that when a licensee leaves their employment, the brokerage submits the termination to the Commission within two business days. Brokers should also ensure they have a copy of the licence and/or the receipt for any licence application for someone they are employing at the time they are employed.

Over the last month, while renewals have been processed, several instances have come to light where a licensee's employment has been terminated and notification was not submitted to the Commission. There has also been an instance where a salesperson has worked for several months with their new brokerage, but is still licensed with their previous brokerage. Neither a termination or a re-instatement of licence was submitted to the Commission. Brokerages on both ends of a situation such as this are leaving themselves open to serious liability issues, including invalidating their Errors & Omissions Insurance coverage should an issue arise involving that salesperson.

**Initials and Agreements of Purchase & Sale** - The various standard Agreements of Purchase & Sale contracts are three page forms. Each of pages one and two have a place at the bottom-right for the buyer and seller to initial. Some licensees do not get the individual pages initialed or their clients/customers don't want to initial them because they feel it is acceptance. The initialing of the pages does not indicate acceptance, it simply acknowledges they have read/seen the page. This helps prevent disputes should a problem arise later and one of the party claims to have never seen that page.

**Brokers/Managers - Please share this information with your staff**

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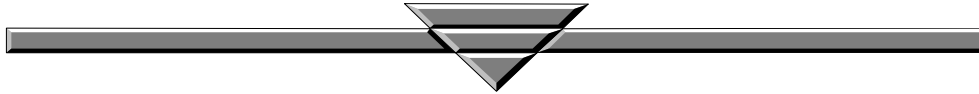
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April 22, 2003

## Commission News

### **Brokerage Trust Audits – Final Reminder!**

Brokers are reminded that every brokerage must submit their Annual Trust Audit and Financial Report to the Commission **by May 1, 2003**. The information is to be based on the 2002 calendar year. The forms were distributed to all brokerage offices in January and must either be postmarked or received by the Commission no later than May 1<sup>st</sup>, 2003. Brokerages that are late submitting the reports are subject to administrative penalties. First time being late submitting is \$250 penalty. Second time being late is a \$500 penalty. Please see By-law 408 (c).

### **CPE and Licence Renewal Reminder**

Licensees are reminded that the 2002-2003 licensing cycle ends June 30<sup>th</sup>, 2003 and all CPE requirements must be completed by then in order to renew their licence. Licensees that do not have their CPE completed by June 30th will not get their licence renewed until the course requirements have been met.

All licensees, with only two exceptions, are required to complete the Mandatory Course for 2002-2003, as well as one three credit (half day) elective course. Licensees who were licensed for the first time between June 30 and December 31, 2002, are only required to complete the Mandatory Course. New licensees who were licensed between January 1 and June 30, 2003, are not required to complete any CPE courses.

If you have not registered for your courses, please do so as soon as possible. As time gets closer to June 30<sup>th</sup> there will be fewer courses to choose from, and should NSAR have to schedule additional courses to accommodate those who leave it to the last minute, the course cost will be significantly higher. Should you not be able to remember what courses you have completed, please check your "Member Profile" at the Association's website [www.nsar.ca](http://www.nsar.ca) or call Cathy at NSAR, 468-2515 or 1-800-344-2001.

**Brokers/Managers – Please share this information with your Salespeople**

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March 24, 2003

## Commission News

**Election Results** – Congratulations go out to Neil Black, of Aberdeen Commercial Realities, who was elected to a three year term on the Commission commencing May 1, 2003. Congratulations also to Roger Burns, of Prudential Marquis Realty, on his appointment by NSAR to a three year term on the Commission, also commencing May 1, 2003. There were 109 licensees in attendance, carrying a total of 178 proxies.

**Time is Running Out - Real Estate Encyclopedia Offer** – This is the last reminder to licensees regarding the special package offer, which includes the Real Estate Encyclopedia, the Encyclopedia CD ROM, and the Nova Scotia Provincial Reference Manual, that is **only available until March 31<sup>st</sup>, 2003**, through the Commission at a special price of \$45.00. After that, interested members would have to purchase the package through NSAR for \$180 and non-members for \$360. This special offer is made possible through a grant from the Recovery Fund.

**Brokerage Trust Audits** – Brokers are reminded that every brokerage must submit their Annual Trust Audit and Financial Report to the Commission **by May 1, 2003**. The information is to be based on the 2002 calendar year. The forms were distributed to all brokerage offices in January and must either be postmarked or received by the Commission no later than May 1, 2003. Brokerages that are late submitting the reports are subject to administrative penalties.

**Money Laundering** – The federal government has established the Financial Transactions and Reports Analysis Centre (FINTRAC) of Canada. FINTRAC is an independent federal agency that collects and analyzes information intended to help law enforcement officials investigate and prosecute money-laundering offences. The centre provides financial intelligence to law enforcement agencies to assist them zero in on the likeliest suspects.

Money laundering is the process by which “dirty money” generated by criminal activities is converted into assets that cannot be easily tracked back to their illegal origins; concealing the illegal source of cash; obscuring the origin of the illicit gains; purifying the proceeds of crime and integrating ill-gotten gains into the legitimate economy.

The federal government passed the *Proceeds of Crime (Money Laundering) Act* in June of 2000. At the heart of the legislation is the **mandatory reporting of suspicious transactions and large cash transactions**. Many different business sectors are now required to identify their clients, keep records and report some transactions to Canada’s new financial intelligence agency.

The real estate industry, as a financial intermediary, is required to keep records and report to FINTRAC transactions that are suspicious in nature and/or involve cash of \$10,000 or more. A suspicious transaction is where reasonable grounds to suspect the transaction is related to illegal money.

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### *Money Laundering continued....*

The context in which the transaction occurs is a significant factor in assessing suspicion and will vary from business to business, and from one client to another. Each reporting entity should evaluate transactions in terms of what seems appropriate and is within normal practices in their particular line of business. Given this, individuals engaged in that business are in a good position to make such assessments.

A suspicious transaction may involve several factors that may seem insignificant when taken individually, but when taken together may raise suspicion that the transaction is related to the commission of a money laundering offence. As a general guide, when a reporting person or entity, or an employee, believes that a transaction or group of transactions, or the nature of the people involved, raises questions about the appropriateness or intent of the transaction(s) or gives rise to discomfort, apprehension or mistrust about the transaction(s) or the people involved, the transaction(s) may be connected to money laundering. An assessment of suspicion should be based on a reasonable evaluation of relevant factors, including the knowledge of the customer's business, financial history, background and behaviour. Transactions may be suspicious regardless of the sum of money involved; there is no monetary threshold for making a report on a suspicious transaction.

In undertaking its monitoring role, FINTRAC will favour a co-operative approach. The emphasis will be on working with reporting entities to achieve compliance with the Act and Regulations. In cases where this cooperative approach has failed to result in better compliance, and in cases of willful non-compliance, FINTRAC will consider referring such cases for legal action against the entity.

Additional information may be obtained from the website for FINTRAC at [www.fintrac.gc.ca](http://www.fintrac.gc.ca). The website gives detailed information with respect to identifying suspicious transactions, the record keeping and the reporting process.

**First Aid Requirement – Occupational Health and Safety Act Regulations** – All employers are required to have adequate first aid available in their workspace. Offices with fewer than 20 employees must have one person with a valid **emergency first aid certificate**. Employers with 20-99 employees must have one person with a valid **standard first aid certificate**. Please keep in mind that the intention is that there be someone available at your business at all times with the necessary first aid certification, so you must allow for the person with the qualifications being absent due to health or vacations. This means that most brokerages would need two or more first aiders.

As Independent Contractors, for business purposes other than the *Real Estate Trading Act*, are considered to be separate entities, all Independent Contractors should have a minimum of a valid emergency first aid certificate.

Information regarding first aid training is available from St. John Ambulance at 464-5310 or 1-800-565-5056.

**Brokers/Managers – Please share this information with your Salespeople**



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March 12, 2003

## Commission News

**Annual General Meeting** — The Annual Reports and proxies were distributed to all brokerage offices last week. This includes copies of the full version of the Annual Report, as well as a short version of the Annual Report. The Commission's AGM is being held: **Friday, March 21, 2003, 2:00 – 3:30 Pm** (Registration 1:00 – 2:00 PM) at the **Casino Hotel Halifax** (former Sheraton Hotel)

**Time is Running Out - Real Estate Encyclopedia Offer** – Licensees are reminded the special package offer, which includes the Real Estate Encyclopedia, the Encyclopedia CD ROM, and the Nova Scotia Provincial Reference Manual, is **only available until March 31<sup>st</sup>, 2003**, through the Commission at a special price of \$45.00. After that, interested members would have to purchase the package through NSAR for \$180 and non-members for \$360. This special offer is made possible through a grant from the Recovery Fund.

**Salesperson Licensing Course Workbook** – Brokers may purchase a copy of the Workbook and Supplement for the new SPLC from the Association at a cost of \$35. This is an excellent resource for all brokers, as it will help you keep informed as to what is being taught in the new course, as well as being an excellent resource for meetings and workshops within your brokerage. There are 25 separate subject areas in the workbook along with many different types of quizzes and exercises at the end of each session. These would be excellent teaching tools for your current staff.

**Use of Old Mandatory Forms** – Brokerages are reminded that most standard forms were revised in the last half of 2002 and that as of January 1, 2003, only the latest version of the forms are acceptable. Any listing brokerage that is presented with an old mandatory form (such as P&S Agreement) should inform the licensee that the form is out-of-date. If the negotiations are finalized without any further offers/counter offers, then the old form can be accepted. The licensee providing the old form should be given written notice by the listing brokerage that the form was out-of-date, and a copy of the notice should be placed in the transaction file. If negotiations continued, then the listing brokerage should not accept any more old forms from the licensee. Licensees continuing to use old forms will be charged with violating the Commission By-law.

**HST Clause** – A standard HST Clause, 9(b), is included in the revised Purchase and Sale Agreement. There have been questions raised as to the proper use of this clause. Clause 9(b)(i) and the initial boxes, are to be used if HST is applicable to the transaction. If the transaction is not subject to HST, then Clause 9(b)(ii) applies and here are two options on how to deal with the other clause. Either Clause 9(b)(i) should be crossed out and the initial boxes not completed or 9(b)(i) can be marked as included in the purchase price and the box initialed by the buyer. If this second option is used by the buyer, then the seller must either agree to the clause or delete it. Either way the point has been brought to the attention of both the buyer and seller and the HST status is fully disclosed and not missed, resulting in the prevention of future disputes.

Questions have also been asked about Clause 9(b)(ii). What is required by this clause has always been standard practice between lawyers representing buyers and sellers. This is not a new practice and it does not require any additional work by licensees as lawyers will continue to provide the necessary documentation.

**Commission Re-Appointment** – Charles Lorway, Q.C., was reappointed by the Governor in Council to a second three year term commencing July 2003. Charles is currently Vice-Chair of the Commission, as well as chairing the Discipline, Finance and Recovery Fund Committees.

**Brokers/Managers – Please share this information with your Salespeople**

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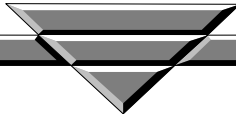
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March 6, 2003

## Commission News

**Annual General Meeting** – The Annual Reports and proxies are being distributed to all brokerage offices this week. This includes copies of the full version of the Annual Report, as well as a short version of the Annual Report. The Commission's AGM is being held:

**Friday, March 21, 2003**

**2:00 – 3:30 Pm**

(Registration 1:00 – 2:00 PM)

**Casino Hotel Halifax**

(former Sheraton Hotel)

An election will take place at the AGM, as two three- year terms, currently being served by Nora Landry, expire April 30<sup>th</sup>. A Commissioner may only serve two consecutive three-year terms. The rules for the election, as well as information on those nominated for the election are included in the annual reports.

The licensees nominated are:

Neil	Black	Aberdeen	Commercial Realities	Dartmouth
Roger	Burns	Prudential	Marquis Realty	Sydney
John	Walker	O & Y Enterprise	Halifax	
Jim	Woods	Royal	LePage Reflections	New Glasgow

**Real Estate Encyclopedia Offer** – Licensees are reminded the special package offer, which includes the Real Estate Encyclopedia, the Encyclopedia CD ROM, and the Nova Scotia Provincial Reference Manual, is only available until March 31<sup>st</sup>, 2003, through the Commission at a special price of \$45.00. After that, licensees would have to purchase the package through NSAR at regular retail price. This special offer is made possible through a grant from the Recovery Fund.

**Publication of Discipline Decisions** – Attached are two recent discipline decisions. A summary of complaints and the results is published according to the Commission's Discipline Decision Publication Policy. They are placed on this website for 30 days.

**Brokers/Managers – Please share this information with your Salespeople**

**Discipline Decisions**  
**Nova Scotia Real Estate Commission**  
**March 5, 2003**

A summary of complaints and the results is published according to the Commission's Discipline Decision Publication Policy. They are placed on this website for 30 days.

**Issue: Misappropriation of Funds**

**Facts:** The licensee failed to properly disperse funds he was entrusted with related to services such as electrical upgrade and oil tank replacement. The licensee also received deposits on transactions in his name and not that of the brokerage. There were four transactions in all where violations occurred, with a total of \$10,052.06 being misappropriated.

**Results:** *A Discipline Panel of the Commission found the licensee guilty of breaching the following sections of the Act:*

Section 22 (1) (a), (b) and (c) – Unprofessional conduct is a question of fact, but in any matter, conduct or thing, whether or not disgraceful or dishonourable, is unprofessional conduct within the meaning of this Act if it is:

- (a) harmful to the best interests of the public, licensed persons or the Commission;
- (b) fraudulent;
- (c) a breach of this Act, the regulations or the by-laws or any terms or restrictions to which a licensee is subject.

Section 22 (2)(b) – Whether or not a person is in breach of this Act, the regulations or the by-laws is a question of fact, but if a person displays:

- (b) a disregard for the welfare of members of the public served by the real estate industry,

**Penalty:** The licensee was fined \$15,000.00 and ordered to pay hearing costs of \$587.96. The Panel further ordered that the licensee not be eligible for licensing for a period of ten years. The Commission was also instructed to notify all other real estate regulators across Canada of this decision.

**Note:** The brokerage is commended for taking immediate action to rectify this situation as soon as it came to their attention. The brokerage terminated the licensee's licence and reimbursed all clients for any losses they incurred.

## Discipline Decisions – Nova Scotia Real Estate Commission – March 5, 2003

### **Issue: Improper Disbursal of Trust Funds**

**Facts:** The Licensee received a deposit in connection with an offer to purchase property and subsequently disbursed the funds from the brokerage's trust account without the authorization of the buyer.

**Results:** The Licensee entered into a Settlement Agreement with the Commission and acknowledged and confirmed this was contrary to the following requirements:

*Section 32 (1) of the Act – Every licensed person who receives money to be held in trust by a brokerage with respect to a trade in real estate shall deposit the money to an interest-bearing trust account that is opened and maintained in accordance with this Act*

*Commission By-law 617 – The broker will remain accountable and responsible for all trust funds until a full accounting has been made to the parties involved.*

*Commission By-law 631 – Anytime more than one party to a transaction is making demands for any trust funds for which the Brokerage is responsible, the Brokerage shall hold the trust funds in the Trust Account until:*

- (a) the parties to the transaction agree, in writing, as to how the money shall be disbursed;*
- (b) the Brokerage is ordered, by a court of proper jurisdiction, to disburse the trust funds in a specified manner; or*
- (c) until the trust funds are distributed to the Commission.*

**Results:** The Licensee agreed to paying the deposit over to the Court until the Court determines the manner in which the deposit monies are to be released. In addition, the licensee agreed to a fine of \$3,000.00 and to the payment of \$2,000.00 in costs (the Commission's legal and administrative costs related to preparation for a Discipline Hearing).

# NOVA SCOTIA REAL ESTATE COMMISSION

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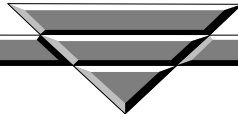
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February 25, 2003

## Commission News

### Meeting of Commercial Licensees

10:00 AM – Wednesday, February 26<sup>th</sup>, 2003  
Classroom “A” (In lower level of bldg addition)  
Real Estate Building  
7 Scarfe Court, Burnside

All commercial licensees are invited to attend a meeting to discuss the following items:

- Commercial representation on the Commission
- Any conflicts Commercial licensees have with the Commission By-law and Policies & Procedures
- Problem Trade Practices
- Illegal Trading
- Inter-provincial licensing
- Any other issues of concern

**Real Estate Encyclopedia Offer** – Licensees are reminded the special package offer, which includes the Real Estate Encyclopedia, the Encyclopedia CD ROM, and the Nova Scotia Provincial Reference Manual, is only available until March 31<sup>st</sup>, 2003, through the Commission at a special price of \$45. After that licensees would have to purchase the package through NSAR at regular retail price. This special offer is made possible through a grant from the Recovery Fund.

**Annual Meeting of the Commission** – The Annual Meeting will be held on Friday, March 21<sup>st</sup>, 2003, at 2:00 PM. The meeting will be held at the Casino Hotel, previously the Sheraton Hotel, in downtown Halifax. The meeting should not run later than 3:30 PM. Copies of the Annual Report will be distributed to brokerage offices two weeks prior to the Annual Meeting.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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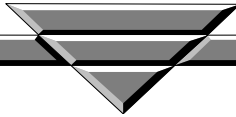
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February 4, 2003

## Commission News

### Meeting of Commercial Licensees

10:00 AM – Wednesday, February 26<sup>th</sup>, 2003  
Classroom “A” (In lower level of bldg addition)  
Real Estate Building  
7 Scarfe Court, Burnside

All commercial licensees are invited to attend a meeting to discuss the following items:

- Commercial representation on the Commission
- Any conflicts Commercial licensees have with the Commission By-law and Policies & Procedures
- Problem Trade Practices
- Illegal Trading
- Inter-provincial licensing
- Any other issues of concern

**Cold Calling** – Licensees are reminded that unsolicited cold calling from Caller ID phone information is not appropriate. The Commission has received complaints from members of the public that have been solicited after calling a brokerage or a salesperson to get information about an advertisement or sign. They spoke to a licensee, got the information they were looking for and ended the call without requesting any further contact, only to have the licensee call them again later soliciting their business. The people that have complained feel that their privacy is being violated. Please respect people's privacy, if you do not get their name and number when you are speaking to them, then do not call them back as a result of Caller ID info.

Please do not confuse this issue with returning messages or calling back numbers left on your Caller ID by people with whom you have not spoken. In both these cases it is certainly appropriate to call back.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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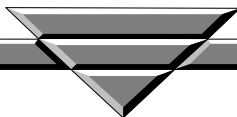
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December 23, 2002

## Commission News

**Commission Office Hours** – The Commission will be closed at 12 noon on Tuesday, December 24th, as well as all day December 25-26. The offices will also be closed at noon on December 31st and all day January 1st.

**Licensing Fee Changes** – The Commission Board of Directors approved the 2003 budget at their December meeting. All licensing fees, both new applicants and renewals, will be increased by \$20 effective January 1, 2003. Exam fees will also increase, going from \$60 to \$75. New Schedule “A” and “B” forms will be distributed to all brokerages over the next two weeks.

The fee increases were necessary because revenues in other categories are down substantially. A large portion of the Commission’s revenue comes from interest on trust accounts, as well as investment income from the Recovery Fund. This drop in revenue is a result of low interest rates and the poor investment climate.

**Annual Trust Account Audit and Financial Report** – The forms for both of these items will be distributed in the next two weeks. Brokers are reminded that these reports must be completed and returned to the Commission, or postmarked, by **May 1, 2003**.

**Reference Materials** – The Commission is sending every brokerage office a copy of the new National Real Estate Encyclopedia, a CD ROM which contains an electronic copy of the encyclopedia, and the Nova Scotia Provincial Reference Manual. These are being provided to brokerages at no charge through a grant from the Recovery Fund. Brokers are encouraged to share these reference materials with their staff and encourage staff to purchase their own copies. These are exceptional reference materials that will prove invaluable for the real estate professional. These materials will also be core reference materials for the new Salesperson Licensing Course which starts January 2003.

All licensees will be able to purchase a copy of these reference materials, through the Commission, at a cost of \$45 per set. This offer will only be available until the end of March 2003. After that, they can only be purchased from the Association at a cost of \$180. This offer is possible as a result of a grant from the Recovery Fund. Additional information on these materials and order forms is contained in the Commission newsletter that is currently being distributed to brokerages.

**Revised Forms** – Licensees are reminded that the following forms were revised earlier this year and that older versions of these forms will not be acceptable for use after January 1, 2003. The users of generic (non-member) forms have until February 1<sup>st</sup> to use their old forms.

Form 100 – Agreement of Purchase and Sale  
Form 102 – Resale Condominium P&S Agreement  
Form 104 – Turn Key New Construction P&S Agreement  
Form 105 – Vacant Land P&S Agreement

Form 301 – Notice/Waiver/Release  
Form 401 – Schedule of Leased Equipment  
Form 500 – Authority To Sell

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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November 5, 2002

## Commission News

**Standard Form Changes** – NSAR is currently stocking the revised Standard Forms. The old inventory of both the Agreement of Purchase and Sale and the Authority to Sell have been used up and the Association is now only shipping the new versions of these forms. The Commission has set a cut-off date of January 1, 2003, for the use of the older versions of the following forms:

*Agreement of Purchase & Sale*

*Listing Agreement (Authority To Sell)*

*Resale Condominium Agreement of Purchase & Sale*

*Agreement of Purchase & Sale for Turnkey New Construction Sales*

*Agreement of Purchase & Sale for Vacant Land*

*Notice/Waiver/Release To Agreement of Purchase & Sale that was Subject To Sale of Buyer's Property*

The Commission has approved funding to allow the Association to replace any brokerage's old inventory of these forms. Brokerages may return the older version of these forms to NSAR after December 1<sup>st</sup> 2002, but before February 15<sup>th</sup> 2003 in order to receive replacement forms.

**Please note that the use of the older version of these forms after January 1<sup>st</sup> 2003 is not permitted.**

**New Purchase and Sales Agreements** – There have been several calls about the HST clause of the revised P&S Agreement, specifically clause 9(b)(ii). The clause states "If this transaction is not subject to HST, the Seller agrees to provide, on or before the closing date, to the Buyer, a certificate in a form reasonably satisfactory to the Buyer, certifying that the transaction is not subject to HST."

Many licensees think this is a new requirement, but it is not. The previous agreements did not include this condition, but it has been standard practice by lawyers involved in property transactions. Lawyers have been doing this since the HST was implemented many years ago because only the seller is in a position to verify the previous use of the property and the resulting HST implications. The addition of this clause does not create any additional work by licensees, but does create the obligation for the Seller and/or the Seller's lawyer.

**New Commission Appointment** – The Government of Nova Scotia has recently appointed Howard Oakey as a Commissioner, public appointment, on the Nova Scotia Real Estate Commission. He replaces Judith Patterson whose term expired in August, after five years as a Commissioner. Mr. Oakey has been appointed for a three year term. He is a manager in the commercial lending department of Maritime Life and a member of REIC.

**In-law Suites and Apartments** – Licensees are reminded that they should only provide descriptions of In-law Suites and apartments, as part of a residential property, on listing cuts and in advertising if the zoning allows for that type of unit. Many municipalities do not recognize In-law Suites as a separate entity and treat them like apartments. By advertising In-law Suites or basement apartments, or making light of the fact with buyers "that it is not zoned for it, but don't worry, no one has ever made a fuss", can lead to problems. Such advertising can upset neighbours and can possibly bring liability for the buyer's agent if someone purchases a property without a complete understanding of the legality of the In-law Suite or apartment unit.

**Brokers/Managers – Please share this information with your Salespeople**



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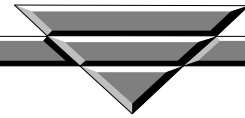
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August 16, 2002

## Commission News

**Standard Form Changes** – The Commission is sending out copies for each licensee of an overview of the changes to the Standard Forms. Brokers and managers are asked to distribute these and to also have meetings with their staff to discuss the changes so that all licensees are aware of and understand the changes. The overview should arrive in each office between Wednesday, August 21 and Friday, August 23.

**Latent Defects** – Sellers and their representatives are required, both under common law and the Commission's regulations, to disclose latent defects to buyers and other parties involved in a transaction. Latent defects are defects in a property that are not easily visible or detectable. An example would be a basement that has a recurring flooding problem, but at the time the property is being inspected there are no visible signs of flooding or water damage. In a situation like this, the seller is required to disclose the recurring flooding problem, and if the listing brokerage is aware of the problem they must also disclose it.

An issue recently came up where a house was under construction and roof-tight, when the property burnt to the ground. A new structure was built on the lot. Most people would not consider any disclosure requirement as the property for sale is an entirely new structure. The difficulty that arises is not regarding the actual structure, but environmental concerns. There is a possibility that the ground is contaminated, from the residue of the fire or the fire fighting chemicals, if any were used. The situation is further complicated if the property is on a well and not central water. There could be a possibility the groundwater has been contaminated. The prudent thing to do in a situation like this is to disclose the fact that the original structure burnt and was replaced. This would allow the buyer to carryout specific investigations necessary to satisfy themselves that there are not any problems.

**Stigmatized Properties** – At the Commission's last meeting, the topic of stigmatized properties was discussed. This has been a recurring issue for many years now. The difficulties with the issue of stigmatized properties are many. To start, there is no clear definition of what constitutes a stigmatized property. There has not been any clear direction by the courts, nor has there been any legislation created to address this issue. In addition, what constitutes a stigmatized property for one person, is not an issue at all for another person. Then there is the issue of how long a property is considered stigmatized. If a property is being sold because of a recent horrific event such as a suicide, is the property still stigmatized if it has changed hands once, twice or more?

Unfortunately, there are not any clear answers to these issues, but there are many, many opinions. From a licensee point-of-view, it is clear that if a recent horrific event has taken place on a property, there must be disclosure. In most other situations, it is not as clear. The best advice is for buyers' agents to ask their buyers if there are any issues that would not be acceptable to them with regard to stigmatized properties. Would they be concerned if there had at one time been a suicide on a property, if it had been used as a crack house or if a property was thought to be haunted? By having a brief discussion on this issue with your buyers you can get a feel for their sensitivities and the take appropriate action when they have narrowed their search down to a specific property. If they do have specific concerns, then you as their agent can ask the right questions.

**Changes to the land Registration System in Nova Scotia** – See the next page for an overview.

**Brokers/Managers – Please share this information with your Salespeople**

**How the *Land Registration Act* will Change Property Closings in Nova Scotia**

It is clear that the new *Land Registration Act* (LRA) will have an impact on most, if not all, property closings once it is proclaimed. The *LRA*, which was enacted last spring, is due to come into force in December 2002 in Colchester County. This Act is the foundation piece of the Registry 2000 Project, an initiative designed to modernize Nova Scotia's land registration system. Through this initiative, what is now a paper-based, time consuming and often frustrating process for tracking ownership to land, will, over time, become a state of the art, electronic and user-friendly system.

Properties will be converted to the new system on a transactional basis. Conversion is mandatory when parcels are sold for value, mortgaged or subdivided [in a non-family context] into three or more lots.

Voluntary conversion is encouraged as well. Lawyers working in the private sector will certify title to the new system.

When parcels are converted to the new system, the LRA requires that owners first locate the parcel on the map and identify which parcel identification number is matched to the parcel. Where the registrar cannot locate the parcel, the registrar may require the applicant to provide such further information concerning the size and location of the parcel as will permit the registrar to determine the parcel identification number for the parcel and a geographical representation of the parcel, showing it in relation to neighbouring parcels with reasonable accuracy. A parcel that cannot be located with reasonable accuracy or for which the description does not permit the creation of a geographical representation of the parcel shall not be registered.

Registration is a two-staged process:

1. The parcel must be located with reasonable accuracy and have its legal description certified to match the property identification number (PID) in the provincial mapping system;
2. An Application for First Registration, and required documentation, must be submitted.

For most parcels in the province, the description/PID match certification will be fairly straight-forward. As noted, it is the applicant's responsibility to provide the system with enough information on the location of the parcel so that it can be mapped with reasonable accuracy. To make the property closing go smoothly, it is important that the application for description certification be sent to the Land Registration Office well before closing, as it is a pre-requisite to parcel registration.

Which of the parties is responsible for description certification and parcel registration should be front and centre as real estate professionals advise their clients and prepare agreements. In a purchase and sale transaction, who applies for description certification and who registers a parcel is a matter of contract between the parties. It may well be that the seller is in the best position to have the location of the parcel verified and the description matched to the provincial mapping. On the other hand, the buyer may be in the best position to convert the parcel, as they are performing the title search.

Some observers have noted that sellers may wish to register their parcels in the new system even before entering into an Agreement of Purchase and Sale. This will certainly help avoid delays at closing. Others suggest that the buyer should convert the parcel on closing but the seller should apply for description certification. Whatever the parties choose, the LRA, once proclaimed in force, will be a factor in every property closing in Nova Scotia.

**A brief overview of the upcoming changes will be part of the mandatory course starting in September.**

**Brokers/Managers – Please share this information with your Salespeople**

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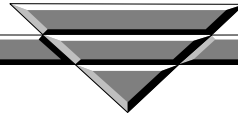
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July 16, 2002

## Commission News

**Delayed Deposit Return** – Brokerages are cautioned that when they are returning a deposit on a collapsed transaction, they should ensure the original deposit has cleared through the bank. There have been instances where a brokerage has returned a deposit only to find out that the original deposit cheque they were given did not clear the Buyer's account. Then there is a potential problem getting the funds returned to the brokerage.

Salespeople should always tell buyers that when the deposit is processed as part of a transaction, the cheque will be cashed/deposited into the brokerage Trust Account. Many buyers are not aware that their cheque will be cashed. They think it will only be attached to the file. This often results in a call to the Commission by an upset buyer. Salespeople should also tell buyers that when the deposit cheque is deposited, it will take a week to ten days to return it, should the transaction be terminated. It should be explained to the Buyer that this delay is necessary to ensure their cheque cleared the bank. A brief explanation up front can prevent an upset Buyer later on.

**Inspections** – Most transactions, you would think, would be subject to a property inspection. Unfortunately, buyers may not have one done for a number of reasons. It may be the cost, they may feel from their own inspection that the property is in good shape, it may be brand new or a fairly new property, or the real estate salesperson may tell them the property looks to be in good shape so don't bother with an inspection. Licensees are advised to always recommend the Buyer have an inspection carried out. Always let the Buyer make their own decision as to whether or not they wish an inspection. Should an inspection not be carried out and problems surface later, the Buyer will be looking for someone to blame! If you, in representing the Buyer during their purchase, have suggested they don't need an inspection, then you are setting yourself up for legal action.

**Originals versus Copies/Faxes** – Licensees are reminded that all documents used in real estate transactions must be legible. If the copy or fax is not clear, then you must either get the document replaced, or at the very least have a copy of the original that was faxed, as part of the transaction file. Many needless complaints and issues arise as a result of poor quality documents.

**Occupancy Permits** - Beware of being involved in a new construction sale and giving the Buyer any advice regarding closing when there is not an occupancy permit available. Please leave this issue to be dealt with by the Buyer, their lawyer and the Seller. It has recently come to the Commission's attention that many new construction sales are closed without an occupancy permit, under the belief that there is only administrative issues outstanding. Often this is the case, but in some situations very expensive problems can arise, particularly if there is not a substantial holdback. The most serious issue usually involves final grade approvals not being in place. This must be signed off after a grade inspection is completed. Should the person signing off not be satisfied with the lot grading, then it could be very expensive to remedy before an occupancy permit can be issued. As a salesperson, you do not want fingers to be pointed at you.

**Brokers/Managers – Please share this information with your Salespeople**

# NOVA SCOTIA REAL ESTATE COMMISSION

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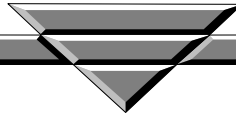
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July 10, 2002

## **Commission News**

**Licences for 2002/2003 Licensing Cycle** – Packages are being couriered this week to all offices, which include new licences and the most recent Commission Newsletter.

**Incentives** – All licensees are reminded that Commission By-law 716(b) that went into effect last September prevents individual licensees from offering incentives to do business. Only brokerages can offer incentives.

By-law 716(b) - **A Broker, Associate Broker or Salesperson must not, directly or indirectly, advertise, communicate or offer to any person an incentive except an incentive that is provided by and on behalf of the Brokerage with which they are licensed.**

**Signage** – The Commission recently received a complaint from a Neighbourhood Association regarding real estate signage. They are upset about signage that is left up throughout their subdivision after a property has changed hands. They are complaining from a couple of points-of-view. First of all they acknowledge signage is important and necessary, but emphasize that it should be removed once the property has changed hands. They are also upset about old signage that simply gets left up and becomes litter that they then have to dispose of.

Both brokerages and individual licensees are reminded that signage is part of your public image. Out of respect for others please remove signage at the proper time and do not post it where it does not belong.

Brokers/Managers – Please share this information with your Salespeople

# NOVA SCOTIA REAL ESTATE COMMISSION

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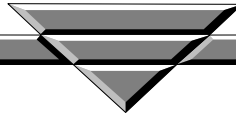
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July 2, 2002

## **Commission News**

**End of 01-02 Licensing Cycle** – June 30, 2002 marked the end of the last licensing cycle. All brokerages were required to have their Audits and Financial Reports in by May 1<sup>st</sup> and licence renewals in by June 15<sup>th</sup>. All licensees were required to have their CPE courses completed by June 30<sup>th</sup>. Attached is a list of brokerages and individuals whose licences have not been renewed. This lapse in licensing means that they are not permitted to trade in real estate until the information/fees are provided or courses completed.

All other licensees that have complied have been renewed. The actual licences and wallet cards are expected to be distributed to brokerages by July 12<sup>th</sup>. The status of whether or not a person or brokerage is licensed is determined by the Registrar of the Commission and not by an actual paper licence.

**New Licensing Cycle** – July 1<sup>st</sup> marked the beginning of the next licensing cycle, which runs through to June 30, 2003. The Commission has specified that all licensees must complete a six hour mandatory course as well as one three-credit CPE elective course for the next cycle. Licensees who complete a six credit elective course may carry forward three credits to the next licensing cycle. The mandatory course for the next licensing cycle will be the same for all licensees and will focus primarily on agency. There will also be information provided on the Registry 2000 project, which is the complete re-organization taking place of the land registry system in Nova Scotia.

NSAR is currently preparing the courses for the 2002-2003 licensing cycle. The course schedule will be distributed to all brokerages around the end of August. There will be several new elective courses available in addition to the mandatory course. The first courses will be run in September. There will not be any courses offered in July-August, as there has been little interest in summer courses in the past.

**Commission Newsletter**– A copy of the Commission newsletter is being distributed with the licence renewals to all licensees. It contains an update on the Commissioners as well as statistics and overviews of discipline matters. In addition, there is information on recurring problems with Trade Practices.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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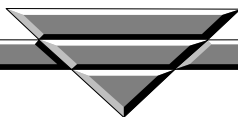
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April 3, 2002

## Commission News

**Annual Audits and Financial Reports** – Brokerages are reminded that May 1<sup>st</sup> is the deadline for these reports for the January 1 – December 31, 2001 period. Any brokerage that does not file their reports by May 1<sup>st</sup> (or postmarked) will be subject to administrative penalties as per By-law 408 (c). The forms for these reports were distributed to all brokerages at the end of December. If you have misplaced the forms, they are available on the Commission website under Licensing Forms or you can call the Licensing Officer, Pam Crane, at 468-3511.

**Continuing Professional Education** – Licensees are reminded that all licensees, with the exception of those recently licensed, are required to complete the Mandatory Course for 2001-2002, as well as an elective. There are three versions of the Mandatory Course, one for residential Salespeople, one for Brokers/Associate Brokers/Managers and one for commercial Salespeople. The commercial course has only one offering remaining, May 29<sup>th</sup>. Any commercial licensees who do not take this course will have to take the residential version.

Licensees will receive a letter shortly indicating what their course status is for this licensing cycle. Please contact the Association's Education Department at 468-2515 if there are any errors or discrepancies in your course status. Please don't leave completing your course(s) to the last minute. Should extra courses have to be added, then the cost for those courses is much higher. Licensees who do not complete the course requirements will have their licence terminated July 1<sup>st</sup> and they will not be able to renew until they have completed their course(s).

**Deposit Concerns** – Licensees are reminded that the normal industry standard is that deposits on real estate transactions are held in the Brokerage's Trust Account. This is done for a couple of reasons. First of all, when the deposit is in a brokerage trust account, the funds are effectively held by a neutral party to the transaction because the Broker cannot release the deposit to any party without the agreement of all parties to the transaction or a court order. Secondly the funds are protected by the Recovery Fund.

When deposit funds are held by a developer, contractor or one of the parties, the funds could be at risk. It is very important that whenever a licensee is involved in a transaction, and the deposit is not being placed in a Brokerage Trust Account, the licensee shall explain this to their client or customer. Should a deposit be lost in a situation where the Brokerage did not hold the deposit, and the licensee did not caution the Buyer or Seller, as the case may be, then the licensee could be at risk of legal action by the Buyer or Seller. In some cases a developer may indicate, as part of the Purchase and Sale Agreement, that the deposit is covered by some form of warranty. This may be true, but the warranty may not protect the deposit fully. Buyers should be cautioned to research the warranty and get legal advice. Another issue that sometimes comes up regarding deposits is that the developer or contractor will hold the deposit in a trust account. Be warned, the only valid trust accounts are those of Real Estate Brokerages or law firms. Others may state they have the deposit in a trust account, but legally there is nothing protecting the deposit, and the holder may use the funds or creditors may take possession of the funds. Always caution your buyer!

**For Sale Signage** – Brokerages are reminded that "For Sale" and directional signs are only permitted on the actual property for sale or in locations where the brokerage has written permission to place signage, from the property owners. Signage placed on public streets, highways, telephone poles and highway signs is illegal.

The Commission has been dealing with numerous complaints recently regarding this issue. Please be advised the fine for a first time offence is usually \$200 and repeat offences can cause a \$500-1,000 fine. Please respect both the public and other people's property, and remember that just because someone else does it, does not mean it is okay.

**Standard Forms** – Please take notice that when a licensee, or an associate of a licensee, as defined in the Real Estate Trading Act, are a party to a real estate transaction they must use the appropriate standard form. As a licensee you do not have a choice

to use or suggest using any form other than the standard (mandatory) form. An example would be a licensee who is also a contractor. As the licensee is a party to a transaction in this example when they sell a new construction to a member of the public, they cannot take off their licensee hat and just put on a contractor's hat for the sake of this transaction. This would also apply when it is the spouse of the licensee who is the party to the transaction. If changes are to be made to the standard form, then they can be made by using a counter-offer form or a schedule. This way the changes stand out and are clear to the buyer.

**Recent Discipline Decisions** – The following sections give an overview of recent discipline decisions approved by the Complaint Review Committee. Names of licensees disciplined are not included unless the penalty is a fine in excess of \$300 for the breach of a specific regulation, or it involves a suspension or cancellation of licence.

**Issue: Unwritten Promise**

**Facts:** At the time of signing a Listing Agreement the seller was told verbally by the two salespersons listing the property that if he/she was not happy with their services, he/she could, at any time, cancel the Listing Agreement without condition. Approximately 3-4 weeks later the seller requested cancellation of the Listing Agreement citing poor service. The brokerage refused to release the seller from the listing as requested.

**Results:** Both Licensees were charged with violating Commission By-law 702, Article 11 – *The Licensee shall ensure that agreements regarding real estate transactions are in writing in clear and understandable language, expressing specific terms, conditions, obligations and commitments of the parties to the agreement. A copy of each final agreement shall be furnished to each party upon their signing or initialing, and shall be dealt with in accordance with the instructions of the parties involved.*

The penalty to both Licensees was a \$200 fine and a letter of reprimand (first time offences).

**Issue: Misleading Advertising**

**Facts:** A licensee placed an advertisement in a local newspaper stating that a free list of foreclosure properties was available at his/her website. When a member of the public accessed the website the list was not available at the site so she sent an email to the Licensee requesting it. The Licensee responded that the list was not available through email and requested her to return to the website and leave her mailing address and phone number so that the Licensee could ask her a few questions about what kind of property she was looking for. When the Commission initiated an investigation into the subsequent complaint the Licensee was requested to submit a written response on or before a specified date. The Licensee did not respond by that date which prompted a second letter from the Commission.

**Result:** The Licensee was charged with violating Commission By-law 708 and Commission By-law 810(c)

*708 - Any advertisement or incentive or the offering of any incentive or the participation in an incentive program to the public as an inducement to trade in real estate undertaken or authorized by a Licensee must not be:*

- (b) inaccurate*
- (c) reasonably capable of misleading the recipient or intended recipient*

*810(c) - A Licensee's response to a complaint shall be delivered to the Investigator as soon as practicable and, in any event, no later than the date set by the Investigator.*

The penalty was a \$300 fine (first time offence).

**Issue: Unwritten Agreement**

**Facts:** A Licensee prepared an offer on behalf of a buyer for a property. The offer was submitted to the seller's agent and subsequently accepted by the seller. During the property inspection the buyer learned of a few issues, one being that the roof had a leak over the dining room. The buyer advised his/her agent that the leak must be repaired by the seller as a condition to the sale. The buyer's agent discussed the matter with the seller's agent and was left with the impression that the leak would be repaired. A few weeks after closing the buyer discovered that the leak had not been repaired. There was no mention of the specific repair in the Agreement of Purchase and Sale or subsequent amendment.

**Result:** The Licensee who represented the buyer was charged with violating Commission By-law 702, Article 11 – *The Licensee shall ensure that agreements regarding real estate transactions are in writing in clear and understandable language, expressing specific terms, conditions, obligations and commitments of the parties to the agreement. A copy of each final agreement shall be*

*furnished to each party upon their signing or initialing, and shall be dealt with in accordance with the instructions of the parties involved.* .../3

The penalty was a \$200 fine and Letter of Reprimand (first time offence).

**Issue: Missing Deposit**

Facts: A seller listed his property with a Licensee. Later, a buyer working with a different Licensee at the same brokerage submitted an offer. The offer stated that upon acceptance a \$1,000 deposit would be submitted to the brokerage in trust. The Seller accepted the offer. Approximately one week later the buyer advised he/she did not want to complete the transaction. The seller contested the buyer's reasoning but upon further inquiry learned that the buyer never submitted the \$1,000 deposit to the brokerage in trust. No one from the brokerage advised the seller of this fact.

Result: The broker of the real estate company was charged with violating Commission By-law 702, Article 2 - *The Licensee shall protect and promote the interests of his or her client. This primary obligation does not relieve the Licensee of the responsibility of dealing fairly with all other parties to the transaction.*

The penalty was a \$200 fine and Letter of Reprimand (first time offence).

**Issue: Unprofessional Behavior**

Facts: During a property inspection attended by the listing agent and the sellers, the listing agent repeatedly advised the buyers' agent, the buyers and the property inspector that he/she had another interested party for the property. Evidence also suggested that the listing agent interfered with the inspection process and disregarded proper procedures by delivering a verbal ultimatum to the buyers' agent and the buyers concerning the inspection results.

Result: The Licensee was charged with violating Real Estate Trading Act Section 22, Part (1) (a) – *Unprofessional Conduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is unprofessional conduct within the meaning of this Act if it is harmful to the best interests of the public, licensed persons or the Commission .* The penalty was a \$200 fine and a Letter of Reprimand (first time offence).

**Issue: Failure to Attend Advertised Open House**

Facts: A Licensee listed a property for clients who were relocating to British Columbia. After relocating the sellers learned that the Licensee had failed to attend an open house that he/she had advertised. When the Commission initiated an investigation into the subsequent complaint the Licensee was requested to submit a written response on or before a specified date. The Licensee did not respond by that date which prompted a second letter from the Commission.

Result: The listing Licensee was charged with violated Commission By-Law 702, Article 2 and Commission By-law 810 (c).

*The Licensee shall protect and promote the interests of his or her client. This primary obligation does not relieve the Licensee of the responsibility of dealing fairly with all other parties to the transaction.*

*A Licensee's response to a complaint shall be delivered to the Investigator as soon as practicable and, in any event, no later than the date set by the Investigator.*

The penalty was a \$200 fine and a Letter of Reprimand (first time offence).

**Issue: Soliciting Another Licensee's Client**

Facts: A licensee contacted another brokerage's listing client twice to express interest in listing one or both of his/her properties. On both occasions the listing brokerage's for-sale signs were on the properties. Both properties were active listings and on mls.ca, which can be accessed by members and non-members of the Nova Scotia Association of Realtors. Regardless as to whether they understood the properties to be unlisted, they should have confirmed this before making any attempts to contact the seller.

Result: The licensee was charged with violating Commission By-Law 702, Article 30.

*A Licensee shall not knowingly approach a seller or landlord whose property is currently listed for the purpose of soliciting a listing for his/her firm on property that is currently listed or a buyer that is under contract.*



The penalty was a \$300 fine and Letter of Reprimand (first time offence).

.../4

## **Trade Practices and You**

### **Incomplete Real Estate Forms**

Incomplete real estate forms are one of the leading causes of charges laid against Licensees by the Commission. Be aware that if incomplete or improperly completed real estate forms are detected during a Commission investigation into a complaint, charges may result even if the original complaint issues are unsubstantiated. Brokers are reminded that they are responsible for reviewing and acknowledging all real estate agreements and therefore may be charged, along with the salesperson in question, if incomplete or improperly completed agreements are detected. The best remedy for this problem is prevention.

### **Exclusive Listing Agreements**

Licensees are reminded that any exclusive listing agreement requires that the Licensee obtain written notification from the seller indicating that the seller requests his/her brokerage to co-operate or to not co-operate with other brokerage(s) in the marketing of the seller's property. This notification must be obtained from the seller at the time the listing is signed and the seller must be made aware of the ramifications if they choose not to cooperate.

### **Multiple Offers**

Several complaints on this issue have been filed with the Commission from both Licensees and members of the public. The recurring problem cited was that a listing agent did not disclose to all potential buyers or their agents that there were multiple offers for a property. This is a requirement under Commission By-law 702, Article 12 – *A Licensee shall present all written offers and counter-offers as objectively and quickly as possible. This must be done within the specified time frames or a written extension must be obtained. A Licensee shall not withhold or delay the presentation of an offer without the express written consent of the client. When there are multiple offers, a Licensee acting on behalf of the seller must disclose to all potential buyers of their agents that there are multiple offers, unless otherwise instructed by the seller in writing, but must not disclose to any other person the specific terms and conditions of other offers.*

The best time to address this potential situation is when the seller executes the listing agreement. Advise the seller of the regulations concerning multiple offers, including your responsibilities to other parties. If you receive multiple offers for a property, but acceptance deadlines are short, you might consider, with the agreement of your seller, obtaining extensions to the offers so that all other buyers/buyers agents can be notified.

### **Unwritten Agreements**

This problem can lead to serious consequences for the licensee.

If you enter into or accept a verbal agreement on behalf of your clients, you are not representing their interests. Why? An agreement not written and/or signed by all parties to the agreement can usually be challenged and often times overturned by the courts.

What started as a short cut to save yourself some time can result in a disappointment and legal liability for your clients. The result, friendly mild mannered clients can easily turn on you if they think their predicament is the direct result of your failing to represent their interests. If they don't come to this conclusion immediately, you can be sure their lawyer will for them. You will then be facing disciplinary action from the Commission and possible civil action from one or more parties to the transaction.

Remember it pays to be proficient and rushing through a deal is recipe for disaster. Ensure that all agreements (extensions, additions, and deletions), pertaining to a real estate transaction, no matter how small, must be written and signed by all parties to the agreement.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

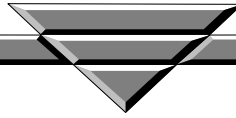
Fax # 902-468-1016

#31

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



March 11, 2002

## Commission News

**Annual Meeting of the Commission** – The Annual Meeting was held on March 8, 2002. There were a total of 87 licensees in attendance carrying a total of 135 proxies. The meeting consisted of a number of reports by committee chairpersons as well as a presentation on the new Salesperson Licensing Course being launched in January 2003. There was also an open forum held, with the main issue being raised involving communications between the Commission and the Association. Several people felt it was important that there be good lines of communications between the two organizations. There were also comments on frivolous and/or vindictive complaints and the number of complaints that are licensee against licensee, and whether the Commission or Association should be dealing with them.

Congratulations go to Eldon Chaisson, the Manager of the RE/MAX Nova office in Halifax, who was elected as a Commissioner effective May 1, 2002, for a three-year term.

**Annual Audits and Financial Reports** – Brokerages are reminded that May 1<sup>st</sup> is the deadline for these reports for the January 1 – December 31, 2001 period. Any brokerage that does not file their reports by May 1<sup>st</sup> (or postmarked) will be subject to administrative penalties as per By-law 408 (c). The forms for these reports were distributed to all brokerages at the end of December. If you have misplaced the forms, they are available on the Commission website under Licensing Forms or you can call the Licensing Officer, Pam Crane, at 468-3511.

**Continuing Professional Education** – Licensees are reminded that all licensees, with the exception of those recently licensed, are required to complete the Mandatory Course for 2001-2002, as well as an elective. There are three versions of the Mandatory Course, one for residential Salespeople, one for Brokers/Associate Brokers/Managers and one for commercial Salespeople. The commercial course has only one offering remaining, May 29<sup>th</sup>. Any commercial licensees who do not take this course will have to take the residential version.

Please don't leave completing your course(s) to the last minute. Should extra courses have to be added, then the cost for those courses is much higher. Licensees that do not complete the course requirements will have their licence terminated July 1<sup>st</sup> and they will not be able to renew until they have completed their course(s).

Please contact Elaine Moulton or Pam Crane at the Commission's office, 468-3511, should you be uncertain what you have completed or what you require.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

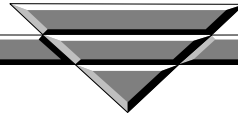
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1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



February 21, 2002

## Commission News

**Annual Meeting of the Commission** – The Annual Meeting will be held on March 8, 2002, at 2:00 PM. The meeting will be held at the Sheraton Hotel in downtown Halifax. The meeting should not run later than 3:30 PM.

**Commission's Annual Report** – The Annual Report for 2001 is being distributed to all brokerages today and Friday. Each Licensee should receive an eight page reduced version of the report. Brokerages will also receive a full size, 36 page version. The full version of the Annual Report is available on the Commission's website [www.nsrec.ca](http://www.nsrec.ca) as well. The report is under both What's New and Publications. Under Publications, you will find previous Annual Reports as well as Commission newsletters and bulletins.

**Election of a Commissioner** – There will be an election for a Commissioner held at the Commission's Annual Meeting on March 8<sup>th</sup>. The Commission has received two nominations that comply with the By-law. The two nominees are Eldon Chaisson, a Managing Associate Broker with RE/MAX Nova in Halifax, and Mary MacDonald, Broker of Walt MacDonald Real Estate in Liverpool. One of these two nominees will be elected to serve a three-year term.

**Appointments to the Commission** – The Nova Scotia Association of REALTORS has appointed Paul Doucet, a Manager of Prudential Property Specialists, to a new term on the Commission. Paul has served one three-year term and for the last year, as the Vice Chair. The provincial government has re-appointed Kent Noseworthy, a Halifax lawyer, to a three-year term. Kent had served on the Commission for a one year term previously.

**PST Tax Rebates** – Please note that effective January 1, 2002, the provincial Government changed the rules on the PST portion of the rebate on new construction. Up until this year the PST rebate was up to \$2,250 on all new construction. That has been changed in two significant ways. First the maximum PST rebate is now \$1,500. Secondly the rebate only applies to first time home buyers. This means that in order to qualify the buyer cannot have owned a home in the past five years.

Please note these changes. It is very important that you are aware of this when discussing offers with clients and customers for new construction.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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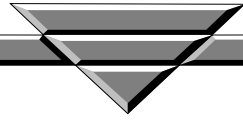
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1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



February 1, 2002

## Commission News

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**Election of a Commissioner** – There will be an election for a Commissioner held at the Commission's Annual Meeting on March 8<sup>th</sup>. Information and nomination forms were sent to all offices last week. Nominations must be received no later than Wednesday, February 6<sup>th</sup> at 4:30 PM. If you are interested in putting forward a nomination, but require more information, then please call the Registrar.

**Fee Increases** – In setting the budget for 2002, the Commission has found it necessary to increase most fees by \$10.00. This is the first fee increase since the Commission was started five years ago. The increase applies to all new licence fees, licence renewal fees, re-instatement of licence and exam fees. In addition, all new licence applicants will be required to pay a \$15.00 fee, on application, to cover the costs for background checks. The increases will be effective February 1, 2002. Additional information and revised forms will be distributed shortly.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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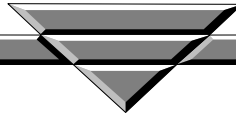
Fax # 902-468-1016

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1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



January 21, 2002

## Commission News

**New Fax Number** – The Commission has a new local fax number, **468-1016**. Please change the Commission's fax number if you have it preset on your fax machine. It is important that faxes for the Commission are sent to this new number if they are to be acted on promptly.

All other phone numbers will remain the same.

Phone: 468-3511 or 1-800-390-1015

Fax: **468-1016** or 1-800-390-1016

**Annual Meeting of the Commission** – The Annual Meeting will be held on March 8, 2002, at 2:00 PM. The meeting will be held at the Sheraton Hotel in downtown Halifax. The meeting should not run later than 3:30 PM.

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**Unresolved Trust Deposits** – Brokerages are reminded that returns are required to be sent to the Commission by January 31, 2002. Information and instructions have been distributed to all offices.

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**Commission Has Moved** – The Commission has moved into its new office space. The offices are still located at 7 Scarfe Court, Suite 200, Dartmouth. They are in the upstairs portion of the new addition to the building.

**Annual Audit and Financial Reports** – A reminder to all Brokers, that the deadline for submitting these reports is May 1<sup>st</sup>, 2002. Late filing will result in administrative penalties. For brokerages that were late last year the penalty will be \$250.00.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

Fax # 902-468-2533

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1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016

January 8, 2002

## Commission News

**Annual Meeting of the Commission** – The Annual Meeting will be held on March 8, 2002, at 2:00 PM. The meeting will be held at the Sheraton Hotel in downtown Halifax. The meeting should not run later than 3:30 PM.

**Election of a Commissioner** – There will be an election for a Commissioner held at the Commission's Annual Meeting on March 8<sup>th</sup>. Information and nomination forms are attached. Nominations must be received no later than Wednesday, February 6<sup>th</sup> at 4:30 PM. If you are interested in putting forward a nomination, but require more information, then please call the Registrar.

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**Commission Moving** – The Commission will be moving into its new office space this weekend. The offices are still located at 7 Scarfe Court, Dartmouth. They are in the new addition to the building. The address should now include Suite 200 when you are writing the Commission.

Nova Scotia Real Estate Commission  
7 Scarfe Court, Suite 200  
Dartmouth, NS  
B3B 1W4

**New Fax Number** – The Commission will have a new local fax number, **468-1016**. Please change the Commission's phone number if you have it preset on your fax machine. All other phone numbers will remain the same.

Phone: 468-3511 or 1-800-390-1015  
Fax: 468-1016 or 1-800-390-1016

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

Fax # 902-468-2533

#26

1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016

November 26, 2001

## Commission News

**Changes to the Real Estate Trading Act**– Bill 85, a bill that was passed by the Nova Scotia Legislature on November 22<sup>nd</sup>, included nine changes to the Real Estate Trading Act. These changes were made to correct or amend specific sections or to add new sections to deal with issues not covered previously. Shown below is a summary of the changes to the Act. A revised Act will be distributed to all brokerages in late December when the Annual Audit and Financial Statement forms are sent out. The Act should be updated on the Commission website within two weeks. The government copy of the Act can be found by going to the Commission website, [www.nsrec.ns.ca](http://www.nsrec.ns.ca), and clicking on the government link under Act & By-law.

### **An Act to Amend the Real Estate Trading Act**

Be it enacted by the Governor and Assembly as follows:

- 1 Clause 2(n) of Chapter 28 of the Acts of 1996, the *Real Estate Trading Act*, is repealed and the following clause substituted:
  - (n) "manager" means a licensed individual who is designated by a broker as a manager on behalf of that brokerage;
- 2 Section 3 is hereby amended by inserting a new sub-section (e).
  - (e) any person who is licensed and in good standing with the Public Accountants Board of the Province of Nova Scotia, and the trading is in the course and part of that person's practice as a public accountant,
- 3 Section 5 of Chapter 28 is repealed and the following Sections substituted:
  - 5 There is hereby established a body corporate to be known as the Nova Scotia Real Estate Commission.
  - 5A The Commission has the power to acquire and hold real and personal property and alienate that property at pleasure.

...2/

**Broker / Manager – Please share this information with your salespeople.**

## Commission News #26

- 4 (1)** Subsection 7(10) of Chapter 28 is amended by adding "voting" immediately preceding "members" in the third line.
- (2)** Section 7 of Chapter 28 is further amended by adding immediately after subsection (10) the following subsections:
- (11) No action for damages lies against the Commission, the Complaints Review Committee, the Discipline Committee, the Licensing Committee, any past or present member of any of those Committees, the Registrar or the Minister for
- (a) any act or failure to act or any proceeding initiated or taken in good faith under this Act;  
or
- (b) any decision, order or resolution made or enforced in good faith under this Act.
- (12) No action lies against any person for the disclosure of any information or any document or anything contained in a document pursuant to this Act unless the disclosure is made with malice.
- 5** Chapter 28 is further amended by adding immediately after Section 7 the following Section:
- 7A Every person involved in the administration of this Act and any member of the Commission or a committee of the Commission shall maintain confidentiality with respect to all information that comes to that person's knowledge regarding licensees and applicants for licences except
- (a) in connection with the administration of this Act and the regulations respecting discipline and proceedings arising thereunder;
- (b) to one's own legal counsel;
- (c) as otherwise required by law; or
- (d) with the written consent of the person to whom the information relates.
- 6** Subsection 8(1) of Chapter 28 is amended by adding immediately after clause ( ab) the following clause:
- (aba) prescribing standards for agency relationships;
- 7** Clause 10(2)(b) of Chapter 28 is repealed.
- 8** Clause 11(1)(e) of Chapter 28 is amended by striking out "broker's, manager's or salesperson's" in the first and second lines and substituting "licence other than a brokerage".
- 9** Chapter 28 is further amended by adding immediately after Section 15 the following Section:
- 15A (1) Where a person whose licence has been suspended pursuant to this Act or the regulations does or attempts to do anything contrary to this Act or the regulations, the Commission may apply to the Supreme Court of Nova Scotia for an injunction to restrain the person from doing or attempting to do anything contrary to this Act or the regulations.
- (2) Where a person who is not licensed pursuant to this Act does or attempts to do anything contrary to this Act or the regulations, the Commission may apply to the Supreme Court of Nova Scotia for an injunction to restrain that person from doing or attempting to do anything contrary to this Act or the regulations.



**Broker / Manager – Please share this information with your salespeople.**

**Commission News #26**

- 10** Subsection 32(6) of Chapter 28 is repealed and the following subsections substituted:
- (6) On an application pursuant to subsection (5), the court may order that the funds be paid to the Commission to be used for such public or charitable purpose, including the education of licensed persons, as the Commission specifies in its application.
  - (7) Any person may recover trust funds that have been transferred to the Commission pursuant to this Section by application to the Commission within six years after the funds were deposited to the brokerage trust account.
  - (8) An application pursuant to subsection (7) shall be made in accordance with the by-laws.
  - (9) This Section applies to funds paid in trust before or after the coming into force of this Section.
- 11** Subsection 44(1) of Chapter 28 is amended by adding immediately after clause (d) the following clause:
- (da) respecting the content of annual reports to the Minister;

**Mandatory Courses** – Licensees are reminded that they are required to complete a total of nine CPE credits during the 2001-2002 licensing cycle. The CPE requirements must be completed by June 30, 2002. Licensees, as part of this requirement, must complete a six credit mandatory course.

There are three versions of the mandatory course being offered this licensing cycle. One is designed for Brokers/Managers and Associate Brokers and anyone holding one of these licences must complete this course. There are two versions of the mandatory course offered to salespeople with one focusing on residential Salespeople and the other for commercial. Salespeople can take either of these courses to meet the requirements. In addition to doing the mandatory course they require, any licensee can take the afternoon portion of one of the other mandatory courses and receive three additional credits. The afternoon of the Broker/Associate Broker course focuses on management skills, the residential focuses on offers, counter offers and multiple offers, and the commercial will be specific to environmental issues.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511

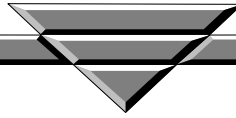
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1-800-390-1015

[www.nsrec.ns.ca](http://www.nsrec.ns.ca)

1-800-390-1016



November 8, 2001

## Commission News

**Commission By-law Changes**— The Commission recently carried out a significant review of the By-law and Standards of Business Practice. Numerous changes were approved and the new By-laws came into effect September 1, 2001. The revised By-law was distributed to brokerages in August. If your brokerage has not received a copy of the revised By-law, please contact the Commission. Revised Commission forms were also included with the mailout.

The revised sections of the By-law are highlighted in bold. All licensees should be aware of the changes as there are many important clarifications and new requirements.

**Mandatory Courses** – Licensees are reminded that they are required to complete a total of nine CPE credits during the 2001-2002 licensing cycle. The CPE requirements must be completed by June 30, 2002. Licensees, as part of this requirement, must complete a six credit mandatory course.

There are three versions of the mandatory course being offered this licensing cycle. One is designed for Brokers/Managers and Associate Brokers and anyone holding one of these licences must complete this course. There are two versions of the mandatory course offered to salespeople with one focusing on residential Salespeople and the other for commercial. Salespeople can take either of these courses to meet the requirements. In addition to doing the mandatory course they require, any licensee can take the afternoon portion of one of the other mandatory courses and receive three additional credits. The afternoon of the Broker/Associate Broker course focuses on management skills, the residential focuses on offers, counter offers and multiple offers, and the commercial will be specific to environmental issues.

**Publication of Discipline Decisions** – At the October Commission meeting, the Commissioners approved a new policy regarding the publication of names of licensees that have been sanctioned, either through a Settlement Agreement or Discipline Hearing. **The policy is detailed below and will become effective for any Settlement Agreements that are offered or Discipline Hearing decisions that take place after January 1, 2002.**

The policy is detailed on the next page.

...2/

**Broker / Manager – Please share this information with your salespeople.**

## **Publication of Discipline Decisions Policy**

### **Nova Scotia Real Estate Commission**

It is the Commission's belief that all enforcement actions should be published to show the public and the industry the actions taken to protect the public and to promote the integrity of the industry.

The method and format of the publication of enforcement action will depend on how the sanction was assessed and the seriousness of the sanctions assessed.

All enforcement actions will be published in the Commission newsletter. The newsletters will also be posted on the Commission's website under Publications. In addition, enforcement actions resulting in either suspension or cancellation of licence will be published in a provincial newspaper and local newspaper, as stipulated in the Act, Section 25(2) and the By-law, Section 839. The notice will identify the licensee subject to the action with a summary of the circumstances and the decision.

### **Administrative Penalties**

Sanctions assessed by way of Administrative Penalty will be published without reference to the licensee's name. The format is intended to be for general information and statistical in nature.

### **Discipline Decisions and Settlement Agreements**

#### **Minor Infractions**

Any minor infractions that result in a penalty of a letter of reprimand, a fine of \$200 or less, a course requirement or a requirement to complete treatment or counseling will be published in industry publications and placed on the Commission website without giving the name of the licensee(s) or brokerage(s) being disciplined.

#### **Serious Infractions**

Any serious infraction that results in a penalty of a fine in excess of \$200 and/or a suspension or cancellation of licence will be published in industry publications. The notices will identify the name and brokerage of the licensee(s) being sanctioned as well as an overview of the issue and penalty. A separate document called "Discipline Decisions" will be posted under Publications on the Commission website and will give an overview of the issues, the penalties and the names of the licensee(s) and their brokerage. The information will be posted under "Discipline Decisions" for 30 days and then removed.

When industry publications that include names of licensees sanctioned are posted on the website the names will be deleted, but the description of the violation and the penalties will be included.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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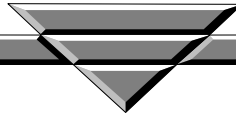
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#24

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July 4, 2001

## **Commission News**

**End of 00-01 Licensing Cycle** – June 30, 2001 marked the end of the last licensing cycle. All brokerages were required to have their Audits and Financial Reports in by May 1<sup>st</sup> and licence renewals in by June 15<sup>th</sup>. All licensees were required to have their CPE courses completed by June 30<sup>th</sup>. Attached is a list of brokerages and individuals whose licences have not been renewed. This lapse in licensing means that they are not permitted to trade in real estate until the information/fees are provided or courses completed.

All other licensees that have complied have been renewed. The actual licences and wallet cards are expected to be distributed to brokerages by July 13<sup>th</sup>. The status of whether or not a person or brokerage is licensed is determined by the Registrar of the Commission and not by an actual paper licence.

**New Licensing Cycle** – July 1<sup>st</sup> marked the beginning of the next licensing cycle, which runs through to June 30, 2002. The Commission has specified that all licensees must complete a six hour mandatory course as well as one three-credit CPE elective course for the next cycle. Licensees who complete a six credit elective course may carry forward three credits to the next licensing cycle. There will be three different versions of the mandatory course, one for Brokers/Associate Brokers, one for residential salespeople and one for commercial salespeople.

NSAR is currently preparing the courses for the 2001-2002 licensing cycle. The course schedule will be distributed to all brokerages around the end of August. There will be six new elective courses available in addition to the mandatory courses. Three are residential in nature, two are commercial and one is brokerage management. The first courses will be run in September. There will not be any courses offered in July-August, as there has been little interest in summer courses in the past.

**Commission By-law Changes**– The Commission recently carried out a significant review of the By-law and Standards of Business Practice. Numerous changes have been approved, with the new By-laws coming into effect September 1, 2001. The revised By-law will be distributed to brokerages in early August. A portion of the Mandatory Course for this next licensing cycle will be spent reviewing these changes.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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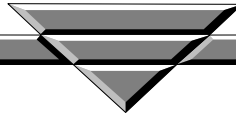
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1-800-390-1016



June 14, 2001

## **Commission News**

**Licence Renewals** – This is a final reminder that licence renewals are required to be submitted to the Commission by June 15, 2001, or postmarked by June 15<sup>th</sup>. If the renewals do not meet that requirement then there will be a \$50 administration fee assessed for late filing. Should renewals not be submitted by June 30, 2001, then the brokerage and/or licensees with that brokerage will be unlicensed effective July 1, 2001, and cannot trade in real estate. Any brokerage submitting documentation or fees after June 30, 2001 must pay fees as if they were a new applicant.

**CPE Requirements** – Licensees are reminded they must complete the Mandatory Course and a minimum of one elective course by June 30, 2001. Licensees that fail to complete their course requirements by June 30<sup>th</sup> will not have their licence renewed. This means, they would not be able to trade in real estate effective July 1, 2001, and until they have completed the necessary course(s).

**Annual Trust Audits and Financial Reports** – All brokerages were required to submit their Annual Trust Audit and Financial Report by May 1st, 2001. These reports are for the time period January 1, 2000, to December 31, 2000. Any brokerage that has not submitted their audit and financial report by June 30, 2001, will not have their brokerage licence or any of their licensees licences renewed until the Commission has received the reports.

**Cancellation Notices** – A Commission News will be distributed July 3, 2001, showing the names of licensees and brokerages that have not had their licences renewed as a result of not completing courses and/or not submitting renewal applications and fees or Audit and Financial Reports.

**Congratulations** – At the recent Commission meeting on June 7<sup>th</sup>, Richard Miller was elected Chairman of the Commission for the next year. Paul Doucet was elected Vice-Chair.

**Commission Office Closed** – The Commission office will be closed on July 2<sup>nd</sup> as a result of Canada Day, which falls on Sunday this year.

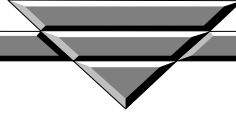
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#22



April 12, 2001

## Commission News

**CPE Requirements** – Licensees are reminded they must complete the Mandatory Course and a minimum of one elective course by June 30, 2001. The Mandatory Courses are restricted to an enrollment of 40 people.

There are over four hundred licensees that have not yet completed the mandatory course. This means that almost a hundred of these licensees will have to pay double the course cost, \$139 instead of \$69.50, as there are only scheduled spaces for about 300 people left. There are also over 500 licensees that have not completed their elective course yet. Licensees should register early to avoid extra costs, as any licensees that are left taking extra courses that have to be scheduled will pay the higher course fee.

Summaries are being sent to all brokerages indicating what courses have been completed by licensees for this licensing cycle as well as what course they have registered for between now and June 30<sup>th</sup>.

**Annual Trust Audits and Financial Reports** – The deadline is fast approaching for when these reports must be submitted to the Commission. All brokerages are required to submit their Annual Trust Audit and Financial Report by May 1st, 2001. These reports are for the time period January 1, 2000, to December 31, 2000.

Brokerages that fail to meet this deadline will be assessed an administrative penalty. Brokerages that are late for a second or third time submitting these annual reports will be assessed a higher administrative penalty.

**Commission Website** – It is recommended that licensees visit the Commission website at [www.nsrec.ns.ca](http://www.nsrec.ns.ca) to familiarize themselves with the services and information available. Licensees will look much more professional if they can respond to consumer questions or comments about the website. The consumer who has visited this site should not know more about the information on it than you, the licensee.

The Buyer and Seller booklets have been placed on the website under Consumer Information. Corrections and clarifications have been made to the web versions.

**Deposit Cheques** – Licensees are reminded that if a deposit is not received and deposited as per the terms of the Agreement of Purchase and Sale, the listing salesperson or their broker must advise the seller, in writing, that the deposit has not been received. It is then up to the seller to decide what they wish to do.

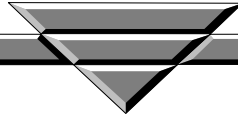
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#21



March 20, 2001

## Commission News

**Annual Meeting** – Congratulations go out to Valerie Folk, the Broker for Royal LePage Atlantic, who was elected to a three year term as a Commissioner starting May 1, 2001. The Commission's Annual General Meeting was attended by 68 licensees and 52 proxies were received. The meeting consisted mainly of the annual reports and a presentation on the Commission's website. During the Open Forum, suggestions were made on improvements to the Buyer/Seller booklets and questions were raised about the Associate Broker licensing category.

**Association Appointment** – The Nova Scotia Association of REALTORS has appointed Robert Wambolt of Coldwell Banker Mary Pat Realities to the Commission for a three-year term commencing May 1, 2001.

**Mandatory Courses** – Licensees are reminded they must complete the mandatory course by June 30, 2001. The courses are restricted to an enrollment of 40 people. Licensees should register early to avoid extra costs, if courses have to be added at the last minute.

**Buyer / Seller Booklets** – Two separate booklets have been published by the Nova Scotia Real Estate Commission. One is the *Practical Guide for Buyers* and the other is the *Practical Guide for Sellers*. These are available for purchase through the NSAR supply ordering system at a cost of \$1.00 plus tax, each. Consumers may get a copy directly from the Commission at no charge. The booklets will also be available shortly on the Commission website at [www.nsrec.ns.ca](http://www.nsrec.ns.ca).

**Commission Website** – It is recommended that licensees visit the Commission website at [www.nsrec.ns.ca](http://www.nsrec.ns.ca) to familiarize themselves with the services and information available. Licensees will look much more professional if they can respond to consumer questions or comments about the website. The consumer who has visited this site should not know more about the information on it than you, the licensee.

**Cancellation of Licence Notice** – A broker had his Broker's Licence cancelled effective March 9, 2001. In addition, a fine of \$3,000 was levied, plus costs of \$8,157. The broker will not be eligible to apply for a Salesperson Licence for a period of one year and must complete an education requirement as well as pass the exam. He will not be eligible for a Broker Licence for a period of three years and must complete the Broker/Manager Licensing Course and pass the exam before making application.

This cancellation is the result of an investigation that resulted in a Settlement agreement. The broker was found guilty of Section 22, Part 1 of the Act, By-law 109, 810, 702-Article 25, 705 and 706.

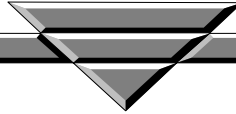
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#20



February 28, 2001

## Commission News

**Notice of Annual Meeting** – The Commission will be holding its **Annual General Meeting on Friday, March 16<sup>th</sup> at 2:00 PM**. The meeting will be held in the World Trade & Convention Centre. Licensees are encouraged to attend. An election will be held to replace Ron Hollett, who is outgoing after five years as a Commissioner. The two nominees are Valerie Folk of Royal LePage Atlantic in Halifax and Carol Rowan of Prudential Woods Realty in Truro.

An abbreviated annual report is being distributed to all offices this week, by either mail or courier. It includes the highlights from the full annual report. The full annual report is available on the Commission website [www.nsrec.ns.ca](http://www.nsrec.ns.ca) under Publications. The report can also be obtained by contacting the Commission office and requesting a copy. This has been done to save on the amount of waste paper and the expense that goes along with it.

**Buyer / Seller Booklets** – Two separate booklets have been published by the Nova Scotia Real Estate Commission. One is the *Practical Guide for Buyers* and the other is the *Practical Guide for Sellers*. These are high quality informative publications designed to assist buyers and sellers in their real estate dealings. Copies of each booklet are being distributed to every licensee and are available for purchase through the NSAR supply ordering system at a cost of \$1.00 plus tax, each. Consumers may get a copy directly from the Commission at no charge. The booklets will also be available shortly on the Commission website at [www.nsrec.ns.ca](http://www.nsrec.ns.ca).

**Commission Website** – It is recommended that licensees visit the Commission website at [www.nsrec.ns.ca](http://www.nsrec.ns.ca) to familiarize themselves with the services and information available. Licensees will look much more professional if they can respond to consumer questions or comments about the website. The consumer who has visited this site should not know more about the information on it, than you the licensee.

**Private “For Sale By Owner”** – Licensees are reminded that they are always considered to be acting as a licensed person, regardless of the type of transaction they are involved with. If you are acting on behalf of a client in the buying or selling of a private sale or if you are selling or buying a property for yourself through a private for sale, you are still considered to be a licensed person and will be held to that standard. This includes advertising. If you are selling or buying a personal property, you must disclose that you are a licensed person and must disclose the reason for the purchase or sale.

**Broker / Manager – Please share this information with your salespeople.**

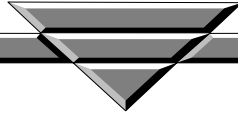


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February 8, 2001

## Commission News

**Annual Meeting of the Commission** – The Annual Meeting will be held on March 16, 2001, at 2:00 PM. The meeting will be held at the World Trade and Convention Center in downtown Halifax. The meeting should not run later than 3:30 PM.

**Election of a Commissioner** – There will be an election for a Commissioner held at the Commission's Annual Meeting on March 16<sup>th</sup>. Information and nomination forms were sent to all licensees in December. Nominations must be received no later than February 14<sup>th</sup> at 4:30 PM. If you are interested in putting forward a nomination, but do not have the information or the nomination form, then please call the Commission office.

**Payments to the Commission** – There have been ongoing problems with licensees or members of NSAR submitting payments for various services and supplies and paying the wrong organization. The Commission and the Association are separate organizations and we ask that you pay closer attention to who you make out your payment to. Please note some of the fees and payments below and the appropriate organization.

### **Commission**

Licensing application fees  
Transfer fee  
Licensing exam  
Licence renewal fees  
Fines from Commission  
Brokerage Manuals

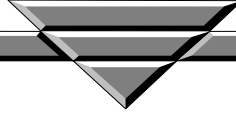
### **Association**

Association dues  
Lock box fees  
Course fees  
Payments for supplies  
Advertising payments  
Payment on account

**Deed Transfer Tax** – Licensees should be aware that any schemes where separate agreements are done for the sale of a lot and the house to be built on it, in order to avoid the deed transfer tax, is illegal. Licensees should not be counseling clients, or writing agreements to avoid deed transfer tax.

**Fax Availability** – Brokerages should be aware of the difficulty in faxing information to them if they do not leave their fax machine on, or if they use a computer to act as a fax machine and the computer is turned off when the office is not occupied. The Commission has received complaints when licensees have had difficulties communicating with other brokerages. The Commission has also had difficulty itself, at times, reaching some brokerages. Fax machines are an important means of communication today and brokerages should ensure their machine is available.

**Broker / Manager – Please share this information with your salespeople.**



December 18, 2000

## Commission News

# Season's Greetings

**Holiday Hours** – The Commission will be closed the dates shown below.

Friday, December 22<sup>nd</sup> at noon until Wednesday, December 27<sup>th</sup> at 8:30 AM

Friday, December 29<sup>th</sup> at noon until Tuesday, January 2<sup>nd</sup> at 8:30 AM

**Exclusive Listings** – A reminder to licensees that when taking an exclusive listing you must get written authorization from the seller as to whether or not the seller wants you to cooperate with other brokerages. It is not the brokerage that decides if they are to cooperate or not, it is the seller. Licensees should keep in mind that the seller's main goal is to get their property sold. A brokerage or licensee that refuses cooperation without the seller's authorization, is not acting in the seller's best interests. If in doubt, cooperate.

A seller can instruct a brokerage not to cooperate with any other brokerage or with a specific brokerage. This would normally be a very rare occurrence, as most sellers want every opportunity to get their property sold. Licensees should not permit disputes between brokerages or individual licensees to interfere with their agency commitments to their clients.

**Changes to Agreements** – Licensees are cautioned that whenever changes are made to any agreements, all parties to the agreement must initial the changes. Once an Agreement of Purchase and Sale has been accepted by all parties, any future changes should be done on an Amendment Form. It is also required that all parties get copies of the changes.

**Faxing Confidential Documents** – When you have occasion to fax confidential documents, you should always ensure that the person they are being sent to is available to take them off the fax. If they are not available, a secretary or some other person should be asked to seal them in an envelope once they are received.

**Unlicensed Trading** – The Commission requests licensees to report incidents of unlicensed trading to the Compliance Officer, Brad Chisholm. If the Commission is not aware of the unlicensed trading, then it cannot take action to stop it.

**Sharing fees with lawyers** – Licensees are reminded that fees or referrals cannot be shared with lawyers. The N.S. Barristers' Society has asked that we pass this along as it has come to their attention that some brokerages have included wording in their custom Schedules that include lawyers in a fee disclaimer. This is against the Barrister's Code of Conduct.

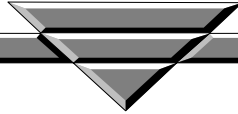
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# NOVA SCOTIA REAL ESTATE COMMISSION

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#17



November 15, 2000

## Commission News

**Public Appointments to the Commission** – The provincial government is responsible for the appoint of three, non-licensee, Commissioners. When the original appointments were made in 1997, all three public appointments were for a three-year term and so all three expired over the last couple of months. The government has just finalized three new appointments that are staggered, one each for one, two and three year terms.

We are pleased to welcome these new appointments. **Kent Noseworthy**, a lawyer in Halifax, has been appointed for a one-year term until November 2001. **Charles Lorway, QC**, a lawyer in Sydney, has been appointed to a three-year term expiring July 2003. **Judy Patterson**, who has served as a Commissioner for the past three years, has been re-appointed for an additional two years expiring July 2002.

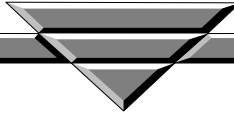
Many thanks to Eric Demont and Tina Sweeney for their service as Commissioners over the last three years. The public appointments have been an important part of the governance of the Commission and their participation has been invaluable.

**Release of Deposits** – There continues to be problems around the release of deposits. The Act and Commission By-law require there to be agreement by the parties to the transaction or an order of the court allowing a broker to release a deposit. A broker cannot release a deposit unless one of these authorizations is in place. The entire premise of putting funds in a trust account is to protect the funds on behalf of all parties to the transaction. No one party can decide, on its own, the fate of trust funds.

Licenses should explain the function and requirements of trust deposits when they are working with the buyers and sellers. Sellers should be aware that they are not automatically entitled to the deposit if the buyer does not complete. The buyer must either forfeit the deposit in writing or the seller must get a court decision. A buyer cannot assume they will have their deposit returned if they declare the transaction null and void. Sometimes, even when it is according to a condition, the seller does not agree to release the deposit. It would then be the option of the buyer to go to court to get a decision. A number of these types of disputes go to Small Claims Court each year.

**Licence Category Survey** – A survey was sent out last month to just over two hundred licensees for feedback on the creation of a new licensing category. The participants were selected on a random basis. Thank you to those licensees that returned the survey, 119 responded. The statistics have been tabulated and they, along with the written comments have been provided to the Commissioners for their discussions at the next Commission meeting.

**Broker / Manager – Please share this information with your salespeople.**



August 4, 2000

## Commission News

**New Licensing Cycle** – July 1<sup>st</sup> marks the start of a new licensing cycle, which runs through to June 30, 2001. The Commission has approved two changes to the mandatory education requirement. Previously education was tracked by “courses” or “credits”. Starting with the July 1, 2000- June 30, 2001 cycle education will be tracked by “hours”. Licensees will have to complete a minimum of nine hours per year. Courses must be minimum of three hours and longer courses will receive a maximum of six hours credit. Licensees completing more than the minimum will be able to carry – over up to three hours into the next licensing cycle.

The Commission has specified that all licensees must complete a mandatory six hour course. This means that in addition to the mandatory course, all licensees will have to complete at least one three-hour elective course.

The Association is currently preparing the courses for the 2000-2001 licensing cycle. The Course Schedule will be distributed to all brokerages by early September. The first CPE courses will be run in September. There will not be any courses offered in August, as there has been little interest in summer courses in the past.

**HST** – Licensees are cautioned to ensure HST is dealt with properly in all transactions. The standard Agreement of Purchase and Sale is worded that HST is included in the purchase price unless otherwise noted in the agreement. This means the seller will be responsible to pay it.

There are two problems that arise regarding HST. The first is when licensees use the standard agreement for transactions other than residential. If the property is land, farm, or commercial, then other HST rules apply and the HST should be discussed with the parties to the agreement and covered off properly with appropriate clauses written into the agreement. When problems occur, usually due to an oversight by the licensee, the seller often goes after the licensee for some, if not all, of the HST. In some transactions this amount can be considerable.

The other HST issue that arises from time to time is, licensees not explaining to a seller or buyer, who is paying a commission, that HST applies to the commission and will be in addition to the commission. By-law 702, Article 7 states that prior to a party signing an agreement, the licensee shall fully inform the party of any expenses he/she is normally liable for. Simply stated, before a seller signs a listing agreement, or a buyer signs a buyer agency agreement, explain that the commission will be subject to 15% HST.

**Renewals** – Attached is a list of licenses that have been renewed since June 30<sup>th</sup>, 2000.

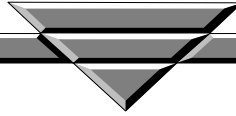
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#15



June 30, 2000

## **Commission News**

**End of 99-00 Licensing Cycle** – June 30, 2000, marks the end of the current licensing cycle. All Brokerages were required to have their audits in by May 1<sup>st</sup> and renewals in by June 15<sup>th</sup>. All licensees were required to have their CPE courses completed by June 30<sup>th</sup>. Attached is a list of brokerages and individuals whose licenses have not been renewed. This lapse in licensing means that they are not permitted to trade in real estate until the information/fees required are provided or courses completed.

All other licensees have been renewed. The actual licenses and wallet cards are expected to be distributed to brokerages by July 14<sup>th</sup>. The status of whether or not a person is licensed is determined by the Registrar of the Commission and not by an actual paper license.

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The Commission has specified that all licensees must complete a mandatory six hour course. This means that in addition to the mandatory course, all licensees will have to complete at least one three-hour elective course.

The Association is currently preparing the courses for the 2000-2001 licensing cycle. The Course Schedule will be distributed to all brokerages around the end of August. The first CPE courses will be run in September. There will not be any courses offered in July-August, as there has been little interest in summer courses in the past.

**Payments to the Commission and Association** – Please pay attention when making payments for courses, supplies, renewals, etc. Courses are put on by the Association and cheques should be made payable to NSAR (the Association) and not NSREC (the Commission). An ongoing problem has been that individuals and brokerages are making payments to the wrong organization.

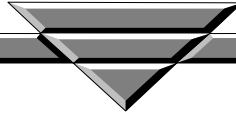
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#14



June 14, 2000

## **Commission News**

### **License Renewals – The deadlines for renewals is tomorrow, Thursday, June 15th.**

All renewal forms and fees must be received by the Commission offices directly by tomorrow or postmarked no later than tomorrow. Late renewals will be assessed an administrative fee of \$50.00. Brokerages can be charged the full fees of new licensees and Recovery Fund for late submission of renewal.

The forms, with any corrections noted, along with a brokerage payment must be received by the Commission no later than June 15<sup>th</sup> 2000. Individual payments will not be accepted. Brokerages must return one payment along with a copy of the invoice and the summary.

**Annual Trust Account Audits and Reporting-** A reminder to brokerages that have not submitted the annual audit and financial report. They were required to be completed and returned to the Commission by May 1<sup>st</sup>, 2000. All brokerages that did not meet the May 1<sup>st</sup> deadline will be assessed a \$50.00 administration fee. Brokerages that have not provided the return by June 30<sup>th</sup>, 2000 will not have their licenses renewed until the forms have been received by the Commission.

**Continuing Education** – As of this date, there are still many licensees that have not completed their annual CPE requirements. Courses must be completed by June 30<sup>th</sup>, 2000. Those licensees that do not complete their requirements will not have their license renewed. The Commission will publish a list, the first week of July, of those licensees whose licenses have not been renewed due to failure to complete CPE.

**Offers/Counter Offers** – Licensees are reminded that they cannot make decisions regarding acceptance or rejection of offers/counters unless they own the property or have Power of Attorney on behalf of a client. The licensee has the role of advisor. In addition, licensees cannot sign on behalf of a client. The licensee has the role of advisor. In addition, licensees cannot sign on behalf of a client, even with verbal instructions, unless they have Power of Attorney.

Another problem that comes up on occasion is licensees witnessing documents without actually having seen the client or customer sign the document. The intention of having signatures witnessed is to enable identification of an individual who actually witnessed the signing. If you didn't see the person sign, can you go to court and testify that the signature on the document is that of the person who supposedly signed it?

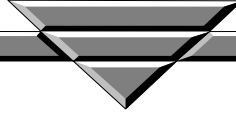
**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

Phone # 902-468-3511  
1-800-390-1015

Fax # 902-468-2533  
1-800-390-1016

#13



May 15, 2000

## Commission News

**License Renewals** – Renewal packages have been couriered to all brokerages. If you have not received this package by Wednesday, May 17<sup>th</sup>, please call Pam Crane at 468-3511 or 1-800-390-1015.

Brokers should review this information to ensure it is correct. All licensees must complete their renewal form. The forms, with any corrections noted, along with a brokerage payment must be received by the Commission no later than June 15<sup>th</sup>, 2000. Individual payments will not be accepted. Brokerages must return one payment along with a copy of the invoice and the summary.

**Continuing Education** - Each year all licensees are required to complete two education credits in order to renew their license July 1<sup>st</sup>. Brokers/Managers must complete the mandatory course “Brokerage Management and Salesperson Supervision: The Broker/Manager’s Responsibilities” and one elective course. The last course scheduled was for June 1<sup>st</sup> and that course is now full. An additional course has been added for June 28<sup>th</sup>. Cost of this course will be double the regular cost.

Salespeople must complete two electives, which can include the mandatory course for Brokers.

Any licensees that fail to complete the required credits will not have their license renewed until the courses are completed. In order to prevent a lapse of your license **register now**. If it is necessary to add course to the current published schedule to accommodate licensees who leave it to the last minute, the charge for the courses added will be double the norm. To avoid this added cost, please register early. A list of licensees’ course status was distributed at the end of April to all brokerages.

**Annual Trust Account Audits and Reporting-** A reminder to brokerages that have not submitted the annual audit and financial report. It was required to be completed and returned to the Commission by May 1<sup>st</sup>, 2000. All brokerages that did not meet the May 1<sup>st</sup> deadline will be assessed a \$50.00 administration fee. Brokerages that have not provided the return by June 30<sup>th</sup>, 2000, will not have their licenses renewed until the forms have been received by the Commission.

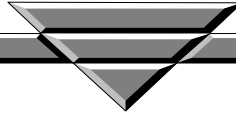
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# NOVA SCOTIA REAL ESTATE COMMISSION

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#12



April 19, 2000

## **Commission News**

**Annual Trust Account Audits and Reporting** – A reminder to all brokerages that the annual audit and financial report must be completed and returned to the Commission by May 1<sup>st</sup>, 2000. Forms were distributed to all offices in January. If you need additional copies, please contact Pam Crane at 468-3511 or 1-800-390-1015. Any brokerages that do not meet the May 1<sup>st</sup> deadline will be assessed a \$50.00 administration fee.

**Commission Election-** Congratulations to Nora Landry, Broker for Century 21 Classic Realty who won the election for a licensee position on the Board of Directors for the Commission. Nora has served as a Commissioner for the last three years, serving on the Licensing and Finance Committee.

**Continuing Education** - Each year all licensees are required to complete two education credits in order to renew their license July 1<sup>st</sup>. Brokers/Managers must complete the mandatory course “Brokerage Management and Salesperson Supervision: The Broker/Manager’s Responsibilities” and one elective course. Salespeople must complete two electives, which can include the mandatory course for Brokers.

Any licensees that fail to complete the required credits will not have their license renewed until the courses are completed. In order to prevent a lapse of your license register early. If it is necessary to add course to the current published schedule to accommodate licensees who leave it to the last minute, the charge for the courses added will be double the norm. To avoid this added cost, please register early. A list of licensees’ course status will be distributed to offices over the next two weeks.

**Broker / Manager – Please share this information with your salespeople.**

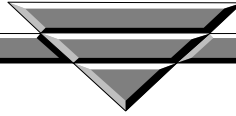


# NOVA SCOTIA REAL ESTATE COMMISSION

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#11



February 21, 2000

## Commission News

**Commission Election** – Licensees are reminded that an election will be held for one position on the Real Estate Commission. The provincial government appoints three positions, three are appointed by NSREA and three are elected. Each year one of these positions comes up for election. The elected positions are for a three-year term and the position currently held by Nora Landry will expire at the end of April. To date one nomination has come forward.

Nomination forms were distributed to all offices over the last two weeks. Those interested in submitting their name must complete the nomination form and return it to the Commission's office no later than March 14, 2000.

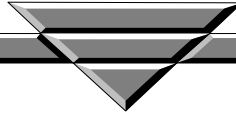
**Annual Meeting of the Commission** – The AGM will be held April 14<sup>th</sup>, 2000, at 2:00 PM at the Holiday Inn Select on Robie Street in Halifax. The meeting will consist of the annual reports of the various committees of the Commission as well as the election of a licensee to serve on the Commission as noted above.

**Annual Trust Account Audits and Reporting** – A reminder to all brokerages that the annual audit and financial report must be completed and returned to the Commission by May 1<sup>st</sup>, 2000. Forms were distributed to all offices in January. If you need additional copies please contact Pam Crane at 468-3511 or 1-800-390-1915. Any brokerages that do not meet the May 1<sup>st</sup> deadline will be assessed a \$50.00 administration fee.

**Continuing Education-** Each year all licensees are required to complete two education credits in order to renew their license July 1<sup>st</sup>. Brokers/Managers must complete the mandatory course "Brokerage Management and Salesperson Supervision: The Broker/Manager's Responsibilities" and one elective course. Salespeople must complete two electives, which can include the mandatory course for Brokers.

Any licensees that fail to complete the required credits will not have their license renewed until the courses are completed. In order to prevent a lapse of your license, register early. If it is necessary to add courses to the current published schedule to accommodate licensees who leave it to the last minute, the charge for the courses added will be double the norm. To avoid this added cost, please register early. A list of licensees' course status will be distributed to offices over the next two weeks.

**Broker / Manager – Please share this information with your salespeople.**



November 8, 1999

## Commission News

**Remembrance Day** – A reminder that provincial legislation prohibits businesses from operating on November 11<sup>th</sup>. Showing properties and negotiating agreements should not cause any problems. Open houses are a bit of a gray area and licensees may want to consider any public impression that may be left if open houses were held.

**Sold Signs** – Advertising of properties can only be done if a property is covered by a listing contract or if the brokerage has written authority of the owner. This includes both print advertising and signage. Sold signs must be removed by the closing, as once the closing has taken place the property is no longer under contract. Co-operating brokers cannot advertise the sale of a property without the permission of the listing broker.

**Mandatory Forms** – Please note that changes have been made to the most recent version of the forms shown below:

Authority to Sell-

Purchase and Sale Agreement-

PCDS-

**Audits-** The Commission Compliance Officer has been traveling around the province inspecting the record keeping and trust accounts of brokerages. The most common problems that come up are:

- No dual Agency Agreement on file when a dual agency transaction has occurred.
- Many listing files have no PCDS form completed or lack a note or confirmation that the seller refused to provide one.
- When a buyer has been provided with a PCDS, the acknowledgment is not signed.
- Changes to written agreements are not properly initialed.
- Witnessing of signatures – Licensees can only sign as having witnessed a signature if they actually see the person(s) sign the document.
- Deposits on offers are not in the possession of the listing brokerage as required by the agreement. This means that if the deposit clause is “on acceptance”, then the listing brokerage must ensure they have the deposit once notified that the deal has been accepted.
- Late depositing of deposits. Brokerages must deposit trust funds within 48 hours of receipt.

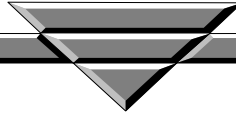
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#9



July 7, 1999

## Commission News

**License Reinstatements** – Attached is a list of licensees that have had their licenses renewed and can now trade in real estate.

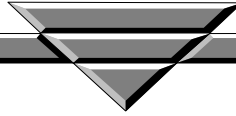
**Sold Signs** – Advertising of properties can only be done if a property is covered by a listing contract or if the brokerage has written authority of the owner. This includes both print advertising and signage. Sold signs must be removed by the closing, as once the closing has taken place the property is no longer under contract.

**Referral Fees** – Brokerages are reminded that referral fees can only be paid to other licensed brokerages. If the referral fee is being paid to persons outside the province, the person receiving the referral must be licensed in that jurisdiction. The Commission by-law expressly forbids the paying of commission to unlicensed persons.

**Deposits-** Deposits are normally made on acceptance of the offer to purchase. If the deposit is not being paid at this time, then the contract must specify when the deposit is to be made. It is the responsibility of the brokerage representing the buyer to ensure the deposit is either attached to the offer or delivered to the listing broker as specified in the agreement. If there is a problem or delay, then the buyer's brokerage must notify the seller's brokerage so that the seller can be kept informed of the delay or problem. The seller's brokerage will be held responsible if the seller has not been kept informed. It is also the responsibility of the seller's brokerage to follow-up with the buyer's brokerage if the deposit has not been received as specified in the agreement.

**Judgements/Bankruptcies-** All licensees are required to report to the Commission if they have filed for bankruptcy or if a judgement has been registered against them. Normally, the Commission would not take any action regarding either situation unless it was related to the operation of the brokerage, or if there was a concern relative to trust accounts.

**Broker / Manager – Please share this information with your salespeople.**



July 2, 1999

## Commission News

**End of 97-98 Licensing Cycle** – When June 30<sup>th</sup> arrived, there were 52 licenses were not being renewed on July 1<sup>st</sup>. Some of these licensees were leaving the industry and will not be renewing. Others have not completed the necessary courses and their licenses will not be renewed until the course requirements have been met. Attached is a list of the licensees who have not been renewed effective July 1<sup>st</sup>. These individuals are not licensed to trade in real estate.

All other licensees have been renewed. The actual licenses and wallet cards are expected to be distributed to brokerages by July 16<sup>th</sup>. The status of whether or not a person is licensed is determined by the registrar of the Commission and not by an actual paper license.

**New Licensing Cycle** – July 1<sup>st</sup> marks the start of a new licensing cycle for all licensees. It is a requirement of the Commission By-law that all licensees complete two continuing education courses (CPE credits) during each annual licensing cycle. This means that all licensees must complete two CPE credits between July 1, 1999, and June 30, 2000. Salespeople will be required to complete two electives from the available courses. Brokers/Managers will be required to complete a specific mandatory course and one elective course.

**Mandatory Forms** – All Licensees should be aware that they may only use the most current versions of forms such as the Listing Agreement and the Purchase and Sale Agreement. Use of forms other than the approved forms may result in discipline actions being taken. The Commission can only regulate the forms provided by licensees. It cannot force the public to use specific forms. A buyer and seller may use an agreement other than the approved form if both parties agree to it.

It is the responsibility of licensees to present buyers or sellers with the approved forms. If a transaction results in the use of an unapproved form then the licensee is required to advise their client that the form is not approved by the Commission and to point out any differences that may exist. It is highly recommended the client be advised to have their legal counsel review the agreement. Changes can be made to the approved form but both parties must be aware of the implications of any changes.

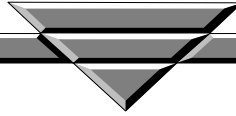
The area where there has been the greatest amount of misunderstanding is with the new construction agreements. The approved Agreement of Purchase and Sale for Turn-key New Construction is an agreement that has been developed to protect the consumer as well as clearly lay out the obligations and responsibilities of the contractor. Often when a contractor's agreement and forms are used the terms are very much to the contractor's advantage. Most consumers are not experienced in new construction and do not understand the implications of how a contract is structured. The areas that cause the most problems include Mechanic's Lien Holdback, deposits, general holdbacks, home warranty and meeting deadlines. The approved agreement clearly describes all these issues. If you are involved in representing a buyer and the standard form is not being used, you must point out that the contractor's agreement may not provide all the protection of the approved agreement. Again, you must point out the differences and also recommend the client get legal advice.

# NOVA SCOTIA REAL ESTATE COMMISSION

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#7



July 6, 1998

## Commission News

**New Licensing Cycle** – July 1<sup>st</sup> marks the start of a new licensing cycle for all licensees. It is a requirement of the Commission By-Law that all licensees complete two continuing education courses (CPE courses) during each annual licensing cycle. This means that all licensees must complete two CPE credits between July 1, 1998 and June 30, 1999. During this licensing cycle, one course, *To-day's Real Estate Professional and Consumer Protection*, is a mandatory requirement for all licensees. The second credit is an elective from the available courses being offered.

**End of 97-98 Licensing Cycle** – When June 30<sup>th</sup> arrived, there were approximately 90 licensees that not completed the necessary courses for license renewal. As a result, these licensees were not renewed. It is expected about half of these licensees have no intention of renewing. To accommodate those people who did not meet their course requirements, but still wish to renew, there have been two courses scheduled for July 8<sup>th</sup>. The cost of these courses was doubled as they are additional courses that were not budgeted for and were only being run to accommodate licensees that did not meet their course requirements during the 12 month period that courses were offered.

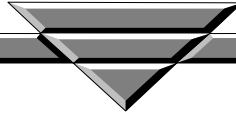
**Mandatory Forms** – All licensees should be aware that they may only use the most current versions of forms such as the Listing Agreement and the Purchase and Sale Agreement. Use of forms other than the approved forms may result in discipline actions being taken. On occasion, it has come to the attention of the Commission that some licensees are using very old forms.

**Commissioner's Update-** After the recent AGM for the Commission, the Commissioners re-elected Richard Miller as the Chairman and Lynn Hoffmann as the Vice-Chairman. The various committee chairs are as shown below:

Finance and Recovery Fund  
Licensing Committee  
Complaint Review Committee  
Discipline Committee

Ray Nelson  
Lynn Hoffman  
Ron Hollett  
Eric Demont

**Broker / Manager – Please share this information with your salespeople.**



April 15, 1998

## **Commission News**

**Commission Annual General Meeting** – The date for the AGM is Friday, April 24, 1998, starting at 2:00 PM. It will be held at the Westin Nova Scotian Hotel in Halifax that afternoon. Meeting details as well as the Commission's Annual Report and names of persons nominated for election to the Commission were distributed to all brokerages last week.

All licensees are entitled to attend and do not have to register for the conference.

**Proxy Voting** – Licensees who cannot attend the AGM may assign their proxy to another licensee. A licensee may carry a maximum of two proxies at the Commission Annual General Meeting. Proxies must be registered prior to the start of the meeting. Proxies may be faxed in to the Commission offices in advance. This will speed up registration the day of the meeting.

**Unresolved Trust Funds** – Brokers are reminded that information regarding any unresolved or unclaimed trust funds (over two years old) should be sent to the Commission. A large number of brokerages have not responded. If you have unresolved trust funds that have been on deposit for over two years, please submit the information as soon as possible. A form was distributed for use in submitting this information. Please call the Commission office if you did not receive this information or need another copy.

**Continuing Professional Education (CPE)**- A reminder that all licensees must complete two CPE courses prior to July 1<sup>st</sup>, 1998 in order to renew their license for the next licensing cycle. Failure to complete the necessary courses will mean the license will not be renewed until the course requirement has been met. Extra courses, above the requirement, completed within a licensing cycle cannot be carried over into the next licensing cycle.

**Exclusive/MLS Listings**- Salespeople should ensure that sellers are clearly aware whether or not the property is being listed exclusively or on MLS. This should be explained in detail at the time the listing agreement is being discussed. There have been a number of complaints to the Commission, that have resulted from poor communication between the agent and the client or where the client has been misled.

**Advertising**- The Commission has had to investigate advertising by licensees as a result of many complaints from both the public and other licensees. The Commission's requirements are very specific. All advertising must identify the licensee, must be clear in what is being promoted or offered and must not be misleading.

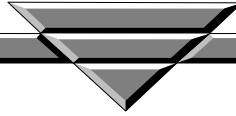
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# NOVA SCOTIA REAL ESTATE COMMISSION

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#5



January 23, 1998

## Commission News

**Unresolved Trust Funds** – Brokers are reminded that information regarding any unresolved or unclaimed trust funds (over two years old) should be sent to the Commission by February 20, 1998. A form was distributed in December for the use in submitting this information. Please call the Commission office if you did not receive this information or need another copy.

**Commercial By-Law Recommendations** – Draft recommendations for changes to the Commission By-Law were circulated in December. A general information session will be held on Wednesday, January 28, 1998, from 9:30 AM to 12:00 PM, in the auditorium at 7 Scarfe Court, Dartmouth. If you are unable to attend, and you have suggestions or criticisms, please forward them to the Commission office so they can be discussed.

**Commission Annual General Meeting** – The date for the AGM is Friday, April 24, 1998. It will be held at the Westin Nova Scotian Hotel in Halifax that afternoon. Meeting details as well as the Commission's Annual Report and names of persons nominated for election to the Commission will be distributed at the end of March.

**Nominations For Election to the Commission-** There are three elected positions on the Commission. They are elected by the licensees and all the licensees are eligible to vote. Each year, one of the positions comes up for election. The three elected positions are staggered so that continuity is maintained. There will be one Commissioner elected, at the AGM, to serve a three year term on the Commission. A notice will be circulated soon to all offices giving details on the nomination process.

**By-Law Suggestions-** The Commission is in the process of reviewing the current regulations. All licensees are requested to let the Commission office know if you have suggestions for changes to the current By-Law and Policies & Procedures or if you have recommendations for additions. The suggestions should be mailed or faxed to the Registrar's attention.

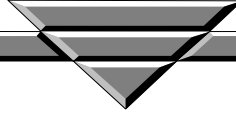
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#4



July 22, 1997

## Commission News

**MANDATORY FORMS** – Over the last year, there have been many changes to the standard forms. All licensees should review these forms closely to ensure they are familiar with the current wording. Some of the changes are the HST clause, the Insurance clause and Warranty clause in Purchase and Sale Agreements. All standard forms used by the licensees must be those approved by the Commission.

**COMMERCIAL UPDATE** – The Commission has established a committee to look at all aspects of commercial sales, leasing and property management. The members of the Commercial Committee are:

Bill Greenwood	Greenwood Lane	Chairperson	Commissioner
Richard Miller	Clayton Developments		Commissioner
Catherine Covey	Maritime Real Estate Group		
Greg Taylor	Colliers International		
Jim Chambers	Chambers Development		
Peter Sheehan	Kelsey Properties		
Tony Robinson	Crowe, Dillon, Robinson		
Doug Dixon	Registrar		

The Committee, as a result of its' first meetings, has determined that there is no need to treat commercial sales any different than residential sales. This means that the Trading Act, the Commission By-Law, and the Policies and Procedures adequately cover commercial property sales. This includes all rules governing agency.

Two areas that are not currently addressed fully are leasing and property management. The Committee is looking at the business norms in this sector of the industry and discussing what regulations are necessary to protect the consumer and at the same time ensure business standards within the industry are maintained.

Any licensees with an interest in this area are asked to pass along any concerns or suggestions they may have. It is expected , the Committee will formulate written policies and make recommendations to the Commission. The draft regulations will then be circulated to all brokerages for input.

**PROMISES IN WRITING** – Any licensee making promises to a member of the public must make those promises in writing. There have been a number of complaints lately where a client was told they would be released from their listing contract at any time if they were not happy with the service. Should you make such a promise you must do so in writing to avoid “complications” at a later date.

**Broker / Manager – Please share this information with your salespeople.**





*Saturday* Real Estate Licensing Course

NSREA is offering a *Saturday* Real Estate Licensing Course during the month of August. This course starts August 2 and runs every Saturday of the month, to allow candidates to challenge the September Licensing Exam. Call 468-2515 or 1-800-344-2001 for a course notice/registration form.

**Advantages:**

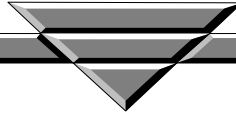
- A week between sessions allows students to do homework, review, prepare for next class.
- Allows students presently working to take the course without using vacation time.
- Out of town students can come in for the day without the expense of having to stay overnight.



The following-one day course for Real Estate Practitioners will be offered in Burnside:

- ~ *Agency Issues* has been arranged for August 20. This course is a revision of the *New Agency* for *REALTORS* course.
- ~ *Representing Buyers: The Specialized Role of A Buyer's Agent* , August 21, is a new course. This is only the second offering.

Both of these courses qualify for the Commission's Continuing Professional Education Program. For further information or to obtain a course notice/registration form, call 468-2515 or 1-800-344-2001 or fax 468-2533.



May 14, 1997

## Commission News

**MANDATORY FORMS** – The Commission By-law require all licensees to use the mandatory forms listed in section 711. Effective June 1, 1997, all licensees will be required to use the approved forms and will not be able to use versions that do not conform. The approved forms may be ordered from the Halifax Dartmouth Real Estate Board at 468-7681. A sample package of forms will be mailed out shortly to brokerages not currently using them. When ordering, you should specify if you are a member or non-member, as there are two versions of the forms. The non-member version does not have CREA or MLS trademarks and does not mention the MLS system.

The most recent versions of the forms provided by HDREB will be permitted to be used until your stock is exhausted. The forms that will be acceptable are as follows:

<b><u>Form</u></b>	<b><u>Form # (bottom right hand corner)</u></b>
Authority to Sell	101-96 or 101-97
Agreement of Purchase and Sale	110a & b96 or 110a & b97 (2 pages)
Condo Agreement of Purchase and Sale	112a & b96 or 112a & b97 (2 pages)
Amendment to Purchase and Sale	112.96 or 122.97
Property Condition Disclosure	130a & b96 or 130a & b97 (2 pages)
Schedule of Sale of Buyers Property	114.96 or 114.97
Notice/Waiver/Release	125.93 or 125.97
Counter Offer	111.95 or 111.97

**BROKERAGE MANUAL UPDATE** – The revised pages were distributed to all brokerages at the end of April. Please contact the Commission office if you did not receive yours. It is very important that you keep your manual up to date.

**LICENSE RENEWALS** – All licenses expire on June 30, 1997. Renewal notices will be sent out at the end of May. The completed forms and fees must be returned no later than June 30<sup>th</sup> in order for licenses to be renewed effective July 1<sup>st</sup>.

**CHANGES/NOTICES IN WRITING** – A common problem that comes up when complaints are being investigated regarding transactions is the lack of written confirmation of changes to agreements or proper written notification of notices. It is the responsibility of the licensee to see that all changes and notices are carried out in writing and they are done in a timely fashion. Verbal extensions and changes do not stand up when a transaction runs into difficulties.

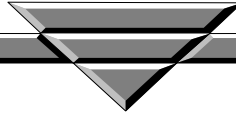
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# NOVA SCOTIA REAL ESTATE COMMISSION

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#2



April 4, 1997

## Commission News

### Election Results

The first Annual General Meeting of the Commission took place on Thursday, March 27<sup>th</sup>. The main business item this year was the election of the three licensees to the Commission. There was also an opportunity for licensees to ask questions and express their concerns.

The election results were as follows:

Nora Landry	Dartmouth	3 years
William Greenwood	Halifax	2 years
Ron Hollett	Dartmouth	1 year

The Nova Scotia Real Estate Appointments to the Commission are:

Ray Nelson	Yarmouth	3 years
Richard Miller	Halifax	2 years
Lynn Hoffman	Annapolis Valley	1 year

As of this date, the government has not yet appointed the three public, non-licensed people, to the Commission.

**Mandatory Forms** – The Commission By-law require all licensees to use mandatory forms listed in section 711. Effective June 1, 1997, all licensees will be required to use the approved forms and will not be able to use versions that do not conform. The approved forms may be ordered from the Halifax Dartmouth Real Estate Board at 468-7681. A sample package of forms will be mailed out shortly to brokerages not currently using them. When ordering, you should specify if you are a member or non-member, as there are two versions of the forms. The non-member version does not have CREA or MLS trademarks and does not mention the MLS system.

**Brokerage Manual Update** - Updated information will be distributed soon to clarify some sections of the manual, as well as to correct errors and missing information. The two most significant clarifications concern deposits and audits. Deposits must be deposited to the Trust Account within two banking days of acceptance of the offer. Trust Account audit reports will still be required as under the old system.

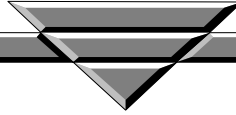
**Licensing Course Prices** - All courses required for qualifying for a license or maintaining a license will be the same amount for all people. There is no difference in cost to members or non-members. The courses include Licensing, Post Licensing and the Continuing Professional Education courses required to meet the annual licensing renewal requirements.

**Broker / Manager – Please share this information with your salespeople.**

# NOVA SCOTIA REAL ESTATE COMMISSION

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March 10, 1997

## Commission News

### Notice of Nova Scotia Real Estate Commission Annual General Meeting

- The NSREC AGM will be held at 1:45 PM on March 27, 1997, at the Westin Nova Scotian Hotel in Halifax. Information for the meetings is being distributed this week. All licensees under the Real Estate Trading Act are eligible to vote. There will be three Commissioners elected at the AGM to replace the Interim Appointments.

The people listed below have been nominated and have agreed to let their names stand:

Sylvia Churney	Coldwell Banker Associates	Sackville
Regina Fardy	Homelife MacNeil	Sydney
William Greenwood	Greenwood Lane	Halifax
Guy Harrington	RE/MAX Allstar	Bedford
Ronald Hollett	RE/MAX Nova	Dartmouth
Patrick King	Pat King (1995) Ltd.	Dartmouth
Nora Landry	Century 21 Classic	Dartmouth
Paul Langille	RE/MAX Banner	Greenwood
Roy Milley	Prudential Marquis	Sydney
David Sawler	Century 21 ABC	Dartmouth

**IMPORTANT** - Business and Consumer Services are no longer regulating or providing administration for the real estate industry. These functions are now the responsibility of the Commission. Many Brokerages continue to send information on old forms to Business and Consumer Services. Brokerages should be communicating with the Commission and be using new forms, which were distributed with the Brokerage Manuals in February.

**Interest Bearing Trust Accounts** - All trust accounts were to be changed to interest bearing by February 14, 1997. Please ensure that your brokerage has done this. The Commission is now following up with all brokerages to confirm this has been done. If you are having problems with your bank, please let the Commission office know.

**Transitional Licensing** - Brokerages were to have had all licensees complete the Transitional Licensing forms and return them to the Commission office by February 28, 1997. Some offices have not yet sent in their returns. Please call the Commission office if you are delayed for any reason completing the return.

**Broker/Manager Meeting** - HDREB is having an information meeting with reps of the Commission to discuss issues of concern and to have questions answered. All Broker/Managers are welcome to attend. It will be at the Ramada Hotel in Burnside on Monday, March 17<sup>th</sup> at 1:30 PM. There will also be an opportunity at the AGM.

**Broker / Manager – Please share this information with your salespeople.**