

Report from Council

Sale of New or Used Manufactured Homes

Licenseses should take the appropriate steps to determine if the property they are listing is a manufactured home, and, if so, that the manufactured home has a valid CSA sticker as required under section 21 of the *Electrical Safety Regulation of the BC Safety Standards Act*. Licenseses cannot offer for sale a manufactured home that does not have a valid CSA sticker, or in the case of an electrical alteration, a silver label.

21 (1) Subject to subsections (3) and (4), a person must not use electrical equipment in British Columbia, or offer for sale, sell, display or otherwise dispose of electrical equipment for use in British Columbia, unless the electrical equipment displays a label or mark as follows:

- (a) a certification mark;
- (b) a label or mark of a certification agency that is acceptable to the appropriate provincial safety manager to certify electrical equipment for a specific installation;
- (c) an approval mark issued under section 10 of the Act; (silver label)
- (d) in the case of used manufactured homes, used factory-built structures and used recreational vehicles, a label supplied by the appropriate provincial safety manager.

Licenseses should not confuse CSA stickers with Manufactured Home Registration (MHR) stickers. Typically, both stickers can be found on the electrical panel; however, the CSA sticker can

also be found near the front door of the manufactured home, whereas the MHR sticker is generally found on the front left corner of the manufactured home. The MHR number is registered by the manufacturer and its purpose is for identification (it is the equivalent to an automobile being issued a VIN number); it is not an indication that the manufactured home is CSA approved.

Licenseses should be aware that, when manufactured homes are sold with land, owners can apply to be exempt under section 21 of the Manufactured Home Act from the registration requirement with the Mobile Home Registry (this does not exempt the mobile home from the requirements under section 21 as noted above for a valid CSA sticker). Reasons for this exemption are provided for in section 5 of the Manufactured Home Regulation as follows:

5 (1) For the purposes of section 21 of the Act, the registrar may exempt a manufactured home from the operation of the Act or any provision of it if

- (a) the manufactured home is located on and intended to be attached to land, each lessor-owner or other secured party with a security interest in the manufactured home who registered a financing statement in the personal property registry under the Personal Property Security Act using the registration number assigned under the Act consents to the exemption



- application and
- (i) at least one registered owner of the manufactured home is registered in the land title office as an owner of the fee simple interest in the land, or
 - (ii) at least one registered owner of the manufactured home is registered in the land title office as a tenant pursuant to a lease for a term of not less than 3 years,
- (b) the manufactured home is no longer capable of being used for residential accommodation, or
- (c) the circumstances are such that the registrar considers it practicable to exempt the home from the operation of some or all of the provisions of the Act for a specified period of time.

When a manufactured home is exempt from registration, it may be difficult for a licensee to ascertain whether the home is actually a manufactured home. Licenseses should look at the BC Assessment roll report which, in the legal description, should indicate a MHR number, specifically if the owner used the

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A Note from the Chair



Bryon Brandle,
Chair

The lead article of this newsletter contains an important reminder about electrical certification requirements for manufactured homes. Licensees that engage in the sale of new or used manufactured homes should familiarize themselves with this information and be aware that offering an unapproved manufactured home for sale is a contravention of the B.C. Electrical Safety Regulation.

The Council continues to receive complaints about licensees providing rental property or strata management services independent of their related brokerage. Licensees cannot provide rental or strata management services “on the side” as a favour or through a company they have set up “on the side”. Licensees must conduct all real estate services through their related brokerage office.

The article on page 8 of this *Report* highlights a series of Homeowner Protection Office maintenance bulletins for multi-unit residential buildings, some of which are available as handy online videos. The Council urges licensees engaged in pro-

viding rental property or strata management services to familiarize themselves with these videos, as well as the other maintenance bulletins from the Homeowner Protection Office.

As noted in the article on page 3, the Council reminds licensees that, pursuant to section 7(3)(b) of the *Real Estate Services Act*, they are not entitled to and must not accept remuneration in relation to real estate services from any person other than the brokerage in relation to which they are licensed. This also applies to payment of remuneration to licensees by developers.

Finally, I want to remind licensees that the election of Council members occurs in May. In areas where there is a Council member election, licensees will receive candidate bios and voting papers for candidates for their area. I encourage licensees to cast their vote and ensure that it arrives at the Council office on or before May 8, 2012.

As we enter the second quarter of 2012, on behalf of the Council, I wish you all the best for a busy and productive spring.

Bryon Brandle
Chair

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exempt manufactured home to qualify for a CMHC-insured mortgage of the land and premises. The MHR number is numeric and will not contain any letters.

Licensees are alerted to be aware of “dummy numbers” that are issued by BC Assessment. These numbers do not mean that the manufactured home has been de-registered. In the absence of an MHR number being provided by the Manufactured Home Registry, BC Assessment issues these numbers when they are assessing properties and observe a manufactured home on the land. These “dummy numbers” are indicated by an

alphanumeric entry beginning with an A, B or Z, and are a good indication that the manufactured home in question was likely built prior to April 1, 1978 and has remained on the property since that date. As such, the manufactured home has likely never been registered with the Manufactured Home Registry and may not meet CSA standards.

Licensees may wish to avail themselves to the following resources:

- www.safetyauthority.ca
- www.bcregistryservices.gov.bc.ca/bcreg/mhrpg/index.page
- www.bcassessment.bc.ca/Pages/default.aspx. ■

Office Closures

The Council office will be closed on **Monday, May 21, 2012** for Victoria Day.

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STATISTICS

April 2012

Representatives: 17,762
Associate Brokers: 1,682
Managing Brokers: 1,315
Total Licensees: 20,759
Brokerages (including branch offices
and sole proprietors): 1,432

Role of the Council

The Real Estate Council is a regulatory agency established by the provincial government. Its mandate is to protect the public interest by enforcing the licensing and licensee conduct requirements of the *Real Estate Services Act*. The Council is responsible for licensing individuals and brokerages engaged in real estate sales, rental and strata property management. The Council also enforces entry qualifications, investigates complaints against licensees and imposes disciplinary sanctions under the Act.

Report from Council

The *Report from Council* newsletter is published six times per year. Past issues can be found at www.recbc.ca.

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Once a Licensee Always a Licensee

The Council continues to receive inquiries whether licensees can, independent of their brokerages, work for a developer and be paid directly by that developer for their real estate services. Further, the Council continues to receive complaints that licensees may have received remuneration directly from the developer rather than from their related brokerage for, amongst other trading services, lot sales.

While there are some true licensee exemptions found in Part 9 of the Council Rules, exemptions in the *Real Estate Services Act* and Real Estate Services Regulation do not apply to licensees. The general rule is once a licensee, always a licensee.

In the case of licensees providing real estate services to developers, the rule is that licensees must only do so through the brokerage with whom they are licensed rather than directly with the developers. As indicated in the April 2006 and February 2012 *Report From Council* newsletters, licensees are reminded that, pursuant to



section 7(3)(b) of the *Real Estate Services Act*, they are not entitled to and must not accept remuneration in relation to real estate services from any person other than the brokerage in relation to which they are licensed. This also applies to payment of remuneration to licensees by developers.

Licensees should ensure that payments of remuneration for the real estate services are provided by developers to their related brokerage and that contracts and other trading in general records are turned into their brokerage in accordance with the Council Rules. ■

Errors and Omissions Insurance Excludes Coverage in Some Circumstances

Licensees should be aware that their Real Estate Errors and Omissions Insurance Indemnity Plan excludes coverage for licensees when they are **either buying or selling** real estate. The exclusion reads as follows:

*“This indemnity plan does not apply to:
9. a claim relating to or arising from providing real estate services in a transaction where the Insured or the*

Insured’s spouse, or a firm or corporation more than 10% owned separately or in combination by the Insured and the Insured’s spouse, has or may acquire an ownership interest;”

For further clarification, licensees are directed to the policy entitled “Indemnity Plan”, available through the Real Estate Errors and Omissions Insurance Corporation website at www.reeoic.com. ■



Disclosure of Internal Remuneration Sharing Agreements

Section 3-3(1)(f) of the Council Rules requires a licensee to disclose to a client “all known material information respecting the real estate services” being provided. If a licensee has agreed to pay a referral fee, that is a material fact which must be disclosed to the client. This is true

whether the referral fee is to be paid to a licensee or to an unlicensed person.

The Council does not consider internal remuneration sharing arrangements to be matters which require disclosure under section 3-3(1)(f) of the Council

Rules. This is true whether these internal arrangements relate to the manner in which remuneration is shared between a brokerage and its related licensees, or the manner in which remuneration is shared between licensees or with unlicensed employees of the same brokerage. ■

Council Rule Amendments

The Council, at its March 13, 2012 meeting, approved the following new and amended rules to take effect July 1, 2012. These changes include the creation of new sections 2-18.1 [*Email addresses for licensees*], 5-6.1 [*Representations as to service agreements*], 8-5.1 [*Records related to referral fees received by a licensee*], and 8-5.2 [*Records related to referral fees paid*], as well as amendments to existing sections 7-9 [*Additional rules for strata management trust accounts and investments*] and 8-2 [*Trust account and general account records*].

The new sections fall into three categories. The first, section 2-18.1, requires licensees to notify the Council, during the term of a licence, of any change to the email address they have provided to the Council.

The second, section 5-6.1, requires that inducements made by licensees to en-

courage members of the public to enter into service agreements, or to alter existing service agreements, be made in writing. This requirement does not apply to general advertising. It applies to representations made to specific parties; as the rule states, representations that are “directly addressed to a party or potential party to a service agreement”. For example, if, as an inducement for a particular seller to enter into a listing contract, a licensee offers to reduce the commission to be charged that seller by \$2000 if the property is sold to a buyer who is introduced to the property by the licensee, the details of that promise must be made in writing.

The third, sections 8-5.1 and 8-5.2, require a brokerage to prepare and maintain certain records when it receives or pays out referral fees. The Council is currently

developing a form that will satisfy these record keeping requirements and the form will be posted on the Council’s website in advance of July 1, 2012.

The changes to section 7-9 are significant in that they require, amongst other changes, a brokerage which holds special levy money on behalf of a strata corporation to hold that money in at least one separate trust account.

The changes to section 8-2 are minor changes and merely restructure the record keeping requirements which have always existed within this rule.

Licensees with questions about these rule amendments can contact the Council office at 604-683-9664, toll-free 1-877-683-9664 or email info@recbc.ca. ■

Miscellaneous New Rules and Rule Changes

Description

2–18.1 Email address for licensees

If the email address provided to the council by the licensee pursuant to section 4–4 [*applications for new licence*] or 4–6 [*applications for licence renewal*] of the bylaws changes, the licensee must promptly deliver a notice to the council updating the licensee’s email address.

Licensees are currently required to provide the Council with an email address when applying for a new licence or a licence renewal. This new section requires a licensee to advise the Council when that email address changes during the term of a licence.

5–6.1 Representations as to service agreements

- (1) In this section, “inducement representation” means a representation or promise made by a licensee in communication directly addressed to a party or potential party to a service agreement that the licensee will do or cause to be done any act or service for the direct or indirect benefit of the party or potential party to induce the party to continue with, or the potential party to enter into, the service agreement.
- (2) A licensee must not make an inducement representation unless, at the time of making the inducement representation, the licensee delivers to the person to whom the inducement representation is made a statement clearly setting out the details of the inducement representation signed by
 - (a) the licensee; and
 - (b) if applicable, any other person involved in the inducement representation.
- (3) If a service agreement is entered into or continued after an inducement representation is made, the service agreement must record any inducement representation.

Current section 5-6 of the rules establishes the requirement that inducements must be in writing when those inducements relate to acquisitions or dispositions of real estate, or inducements related to financing.

This new section creates a similar requirement in relation to inducements made with respect to service agreements such as listings.

7–9 Additional rules for strata management trust accounts and investments

- (1) This section applies to a brokerage that provides strata management services.
- (2) A brokerage must, for each strata corporation on behalf of which the brokerage holds or receives money, maintain the following brokerage trust accounts:
 - (a) at least one separate trust account in the name of the strata corporation;
 - (b) if the brokerage is to hold contingency reserve money, ~~or special levy money on behalf of the strata corporation~~ at least one separate trust account in the name of the strata corporation for the contingency reserve fund money; ~~the special levy money or both;~~
 - ~~(b)(c)~~ if the brokerage is to hold special levy money, at least one separate trust account in the name of the strata corporation for ~~the special levy money.~~
- (2.1) If a brokerage receives money that is subject to subsection (2) by means of direct electronic deposit into a brokerage trust account that receives funds on behalf of more than one strata corporation, the money must be transferred to the applicable trust account under subsection (2) no later than 3 days after the day on which it was received.
- (3) Amounts received by the brokerage on behalf of a strata corporation must be paid into the trust accounts under subsection (2) as follows:
 - (a) if the amount received does not include contingency reserve fund or special levy money, it must be paid into an applicable trust account under subsection (2) (a);
 - ~~(b) if the amount received is only contingency reserve fund money it must be paid into an applicable trust account under subsection (2) (b), or special levy money or both, it must be paid into an applicable trust account under subsection (2)(b);~~
 - ~~(c) if the amount received is only special levy money it must be paid into an applicable trust account under subsection (2) (c).~~
 - ~~(e d)~~ if the amount received ~~is consists partly contingency reserve fund money or special levy money or both~~ of amounts under 2 or more of (a), (b), or (c),
 - (i) it must be paid into an applicable trust account under subsection (2) (a), and
 - (ii) the amount received in respect of contingency reserve fund money or special levy money must then be dealt with in accordance with subsection (4).
- (4) If subsection (3) ~~(e d)~~ applies, within 7 days after the end of the month in which the contingency reserve fund money or special levy money was received, the brokerage must either
 - ~~(a) if the brokerage is to hold the money on behalf of the strata corporation, transfer it to an applicable trust account under subsection (2) (b) or (c), or~~
 - (b) pay the money over to the strata corporation ~~;~~
- (5) If money in a trust account under subsection (2) (a) is transferred to a pooled trust account for one or more strata corporations, the brokerage must promptly
 - (a) pay the money on behalf of the strata corporation, or
 - (b) transfer it to an applicable trust account under subsection (2) (a).
- (6) In the case of ~~a~~ trust account under subsection (2) (b) ~~or (c)~~, the brokerage must arrange for the trust account to be set up so that the signatures of at least two of the following are required in order for money to be withdrawn from the account:
 - (a) a related managing broker;
 - (b) a member of the council of the strata corporation ~~or a member of the section executive;~~
 - (c) another related licensee of the brokerage;
 - (d) a director or officer of the brokerage;
 - (e) a person employed or engaged by the brokerage who is authorized to practice as
 - (i) a lawyer under the *Legal Profession Act*,
 - (ii) a certified general accountant under the *Accountants (Certified General) Act*,

The changes to section 7–9 establish new requirements for

- 1. maintaining a separate trust account for special levy money that is to held by a brokerage providing strata management services,
- 2. depositing money received on behalf of a strata corporation into the appropriate trust account (i.e. the ‘operating’ trust account, the contingency reserve fund trust account, the special levy trust account), and
- 3. transferring money into the appropriate trust account.

This includes a member of a section executive in the list of people who may be authorized signatories on a contingency reserve fund trust account or a special levy trust account maintained by a brokerage.

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- (iii) a chartered accountant under the *Accountants (Chartered) Act*, or
 - (iv) a certified management accountant under the *Accountants (Management) Act*.
- (7) For each trust account under subsection (2), the brokerage must
- (a) arrange for the savings institution to provide monthly statements respecting the account, and
 - (b) provide to the strata corporation, no later than 6 weeks after the end of the month for which a statement under this subsection was issued,
 - (i) ~~a copy of~~ that statement, ~~and~~
 - (ii) a copy of the monthly reconciliation referred to in section 8-2(c) [*monthly reconciliations of bank statements*] of these rules in relation to that statement, and
 - (iii) if requested by the client, a copy of those records referred to in section 8-2(a) [banking records] and 8-2(b) [records of amounts received and disbursed] of these rules related to the monthly reconciliation referred to in section 8-2 (cb) [monthly reconciliation of bank statements] for the month in question.

This adds a requirement that, if requested by a strata corporation client, a brokerage must provide certain supporting records and documents related to a trust account bank statement as well as the monthly reconciliation in relation to that bank statement.

8-2 Trust account and general account records

For each account maintained by a brokerage, the brokerage must

- (a) retain all banking records relating to account transactions, including statements, cancelled cheques and other source documents making or confirming deposits or withdrawals;
- (b) prepare and retain a record showing amounts received and disbursed, the reason for the receipt or disbursement, and any unexpended balance; and
- (c) prepare and retain monthly reconciliations of banking statements to the record referred to in subsection (b), prepared in a timely fashion and, in any case, no later than 5 weeks after the end of the month being reconciled.

This amendment re-formats, but does not change, the record keeping requirements related to brokerage accounts. The purpose is to clarify which records are to be provided to a strata corporation client in response to a request made under section 7-9 (7)(b)(iii) above

8-5.1 Records related to referral fees received by a licensee

- (1) For the purposes of this section:
"referral fee" means remuneration received by a licensee in relation to sections 5-11(1)(b) or (c) [disclosure of remuneration] or section 5-12 [benefits in relation to services provided] of these rules.
- (2) This section applies
 - (a) when a referral fee is received by a brokerage in relation to trading services, and the only trading service provided by the brokerage is the referral of a person to a licensee or a licensee to a person for the purposes of a licensee providing real estate services; or
 - (b) when a referral fee is received by a brokerage in relation to strata management services or rental property management services.
- (3) If a brokerage receives a referral fee and this section applies, the brokerage must prepare and maintain a record, in a form approved by the council, that includes the following information:
 - (a) the amount of the referral fee;
 - (b) the date on which the brokerage received the referral fee;
 - (c) a description sufficient to identify the activity undertaken by the brokerage or related licensee for which the referral fee was received;
 - (d) the name of the person who paid the referral fee; and
 - (e) the name of every person to whom any amount of the referral fee is paid and the date of such payment.

This new section establishes the records to be prepared and maintained by a brokerage in relation to referral fees that are received by a brokerage, either on its own behalf or on behalf of a licensee engaged by the brokerage

8-5.2 Records related to referral fees paid

- (1) For the purposes of this section:
"referral fee" means remuneration paid to any person who refers another person to a licensee or a licensee to another person for the purposes of a

This new section is intended to clarify what records must be prepared and maintained by a brokerage in relation to the payment of referral fees.

- [licensee providing real estate services.](#)
- (2) [This section applies](#)
- (a) [when money is paid by a brokerage in relation to trading services in the form of a referral fee and not in connection with a trade in real estate for which records are required to be retained under section 8-5 \(2\) \[trading records\] of the rules; or](#)
- (b) [when a referral fee is paid by a brokerage in relation to strata management services or rental property management services.](#)
- (3) [If a referral fee is paid by a brokerage and this section applies, the brokerage must prepare and maintain a record, in a form approved by the council, that includes the following information:](#)
- (a) [the amount of the referral fee;](#)
- (b) [the date on which the brokerage paid the referral fee;](#)
- (c) [a description sufficient to identify the purpose for which the referral fee was paid;](#)
- (d) [the name of the licensee on whose behalf the referral fee was paid; and](#)
- (e) [the name of the person to whom the referral fee was paid.](#)

Measurement of Commercial Properties

Commercial properties primarily consist of industrial warehouse, retail and office space. Licensees involved in establishing floor measurements of commercial properties should be aware of the numerous measurement methods available.

Survey records should be available describing the legal lot and the placement of the building situated on the lot. The size (either metric or imperial) of the perimeter of the building is also included in the survey. For a multi-level building, the size should be described for all levels, including below grade. This is sometimes referred to as Construction Area, Gross Building Area or Exterior Gross Area. In general terms, these descriptions reflect the square footage of the building based on perimeter measurements. Review the legal survey notes to determine the treatment of space, such as Balcony, Terrace, Deck, Roof Terrace and Loading Bay areas. Should the legal survey be outdated or unreadable concerning the building measurements, an alternative approach, such as a recent Architectural Design Drawing, Construction Drawings, Working Drawings or Building Plans, can be used so long as the measurements are verified and deemed reliable. Caution must be applied since concept drawings do not necessarily reflect the existing “true built” condition.

In the event the parties agree to a full building spatial audit for the purposes

of determining total leasable area, then several other options are available. The Building Owners & Managers Association (BOMA) publishes six Measurement Standards to help a cross section of commercial real estate professionals. As well, the BOMA BC Office or their website, www.boma.bc.ca, can provide resources and publications with information concerning area measurements and calculations, and is recommended by the Council. BOMA Measurement Standards are known for their consistency and also the thoroughness of addressing all forms of space within a building.

When referring to the square footage of the leasable area of the property, it should be disclosed as to the source for this data and how it was determined. Should the method of measurement be absent of any recognized Measurement Standard, refer to the Lease Agreement for any specific description, or guideline, within the Agreement that establishes a procedure to determine the leasable area. If such guidelines exist, carefully consider the wording in declaring the square footage. Using ambiguous terms, such as “Gross Rent” or “Total Net Lease”, etc., can result in confusion due to the wide range of definitions used in the industry.

The Common Areas described in the Lease Agreement may be classified into two distinct forms; one for the share of



common areas referencing all areas within the building itself, and the other concerns the Common Area amenities related to exterior space, such as landscaping, parking, waste containers, etc. Common Areas outside of the building area are rarely incorporated into the Leasable Area and are typically addressed to clarify other maintenance and tax expenses. The current rent roll should be examined and may reveal the square footage that the current rent rate is based upon. The rent roll typically describes the square footage and rent rates for each of the tenanted areas. It may also include detailed adjustment factors for the pro-rated share of common areas.

Due to the complexities in preparing the disclosure of reliable leasable space for commercial properties, the Council recommends a Registered Land Surveyor or a Professional Measurement Service with proven knowledge, experience and expertise in this area to provide assistance when necessary. ■

Benefits in Relation to Rental Property Management and Strata Management Services

Section 5-12 of the Council Rules requires that, if a licensee, who provides rental property management or strata management services, receives or anticipates receiving a benefit as a result of expenditures made by or on behalf of the principal to whom the management services are provided, the benefit must be disclosed to both the principal and the licensee's brokerage. Disclosure is also required if an associate of the licensee is to receive the benefit.

A rental property manager or strata manager may obtain a benefit by retaining companies in which the licensee or an associate of the licensee has an interest to provide services or carry out work

for in relation to the managed property. If, for example, the licensee retained a company owned by their spouse to provide landscaping services, section 5-12 of the Council Rules would apply and require that the benefit be disclosed to the principal, i.e. rental property owner or strata corporation. In such circumstances, an associate of the licensee is obtaining a benefit as a result of an expenditure made on behalf of the principal.

Section 5-7 of the Council Rules defines the meaning of "associate" for both individual licensees and brokerages. Rental property managers and strata managers should pay particular attention to the

definition in order to ensure that the required disclosures are made.

Licensees must also ensure that, if they intend to direct business to any service provider on the understanding that the licensee will receive a benefit for doing so, this is first disclosed to and agreed to by the client on whose behalf the services will be provided.

A sample form entitled "Disclosure of Benefits" has been prepared by the Council for use in situations where a representative, brokerage, or associate will receive a benefit. The form can be found on the Council's website as www.recbc.ca/pdf/forms/disclosurebenefits.pdf. ■

Videos Provide Guidance About Multi-unit Building Maintenance

Important maintenance information for multi-unit residential buildings is highlighted in a new series of online videos.

Launched by the Homeowner Protection Office (HPO), a branch of BC Housing, the video series offers practical information about maintaining the building envelope of multi-unit residential buildings, including townhouses, and low and high-rise buildings.

They were created as companions to the HPO's free Maintenance Matters bulletins, which provide tips to strata councils, maintenance managers, housing co-operatives and building owners, as well as individual homeowners.

The videos are available on YouTube and the HPO website and will also be played at educational seminars and events sponsored by the HPO.

They're short and informative, providing an overview of why regular maintenance needs to be performed, as well as helpful tips and checklists.

The three videos can be found at www.hpo.bc.ca (What's New) and BC Housing's YouTube channel at <http://www.youtube.com/user/bchousing1>.

Regular maintenance not only enhances property values and curb appeal, but also prevents more costly problems in the future and is less expensive than paying for emergency repairs.

It also helps protect the building's home warranty insurance. Warranty providers may deny coverage in cases of neglected and improper maintenance, particularly if the first owner received a maintenance manual from the builder or warranty providers and did not perform the recommended maintenance.

The first three segments in the video series address the most recent Maintenance Matters bulletin topics:

- **At-Grade and Below-Grade Assemblies** (typically used for car and bicycle parking and storage)
- **Exposed Wood Structures** (such as wood walkways and decks)
- **Cladding** (materials used to cover the exterior of a building)

Those responsible for maintaining multi-unit buildings can find more detailed guidance in the HPO's Maintenance Matters bulletins, produced in collabora-



Homeowner
Protection Office

Branch of BC Housing

tion with Canada Mortgage and Housing Corporation, Polygon Homes and building envelope consulting firms. The bulletins, which provide comprehensive information and advice, can be downloaded in PDF format from the Reports & Publications section at www.hpo.bc.ca.

In addition to the three topics covered in the videos, the other bulletins address:

#7: Building Envelope Maintenance and Renewals Planning – Learn the function of the building envelope, how maintenance affects its service life, and what to consider when planning for maintenance and replacement.

#6: Decks and Balconies – This bulletin provides practical information on steps to

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Brokerage Name and Address Changes

If a brokerage changes its name or business address, the brokerage licence must be changed. To change the brokerage's name or address, the following procedures must be completed:

- Obtain approval from the Council regarding the intended name change prior to registering the name change with the BC Corporate Registry. If using a trade or franchise name, it must also be registered with the BC Corporate Registry prior to the Council's records being amended. In order to assist applicants, the Council requests that applicants complete and submit the Request for Brokerage Name Approval form, available on the Council's website at www.recbc.ca;
- Submit a Request for Brokerage Name Change form, accompanied by the appropriate fee;
- Return the existing brokerage licence certificates to be amended. All licensed offices of the brokerage must have their licences amended in the case of a name change. Certificates of related licensees are not required to be amended;
- In the case of an address change, submit a copy of the city or municipal business licence;
- In the case of an address change, submit a Request for Brokerage Address Change form, accompanied by the appropriate fee, and provide written confirmation that the business address is in a commercial location. Alternatively, if the brokerage is moving to a residential office, the applicant must provide evidence satisfactory to the Council;

- That the local government bylaws applicable to the residence permit the brokerage to conduct business from the residence; and
- Of any restrictions established by local government bylaw limiting the persons who may conduct business from the brokerage office.

The Council permits both corporations and individuals to do business under a name other than their legal name. Brokerages are reminded that the Council must approve both the legal name and trade name of the brokerage and the names must be registered with the BC Corporate Registry. The licence certificates will reflect both the legal name and the trade name.

Once a trade name has been approved by the Council and registered with the BC Corporate Registry, that trade name becomes the licensee name of the brokerage for the purposes of the *Real Estate Services Act*. The legal name and the trade name of the brokerage are both shown on the brokerage's licence certificate, however the Council Rules require that the brokerage's licensee name (the trade name) be clearly indicated in the course of providing real estate services (section 4-5 of the Council Rules) and be displayed in a prominent and easily readable way in all advertising published by any of its related licensees (section 4-6 of the Council Rules).

It should also be noted that section 27 of the *Business Corporations Act* contains certain requirements regarding the use of a

company's legal name. Brokerages should seek legal advice as to the how these obligations are to be incorporated into their business activities.

If, after licensing, a brokerage decided to use a trade name rather than the legal name under which it was licensed, the trade name would have to be approved by the Council and registered with the BC Corporate Registry. The real estate licence of the brokerage and any branch offices would then have to be amended.

If, after licensing, a brokerage intends to operate under a franchise arrangement, the licence must be amended before operating under a franchise name.

Brokerages associated under a franchise agreement may all share a common part of their names (i.e. that part which identifies them as franchisees). However, franchisee brokerages must be readily identifiable by their full name or trade name.

The franchise name must be approved by the Council and registered with the BC Corporate Registry. The Council may require a copy of the licensing agreement or "consent for use of name" from the franchisor. If a brokerage entered into a franchise agreement after the brokerage licence was issued, the brokerage's licences would then have to be amended to reflect the change in name.

Licensees with questions can contact the Council at 604-683-9664, toll-free 1-877-683-9664 or email info@recbc.ca. ■

Continued from Page 8

take for proper inspection, maintenance, and long-term performance of decks and balconies.

#5: Sealants – Sealants protect your building envelope from water and air. Learn about the types of sealants and their maintenance requirements.

#4: Residential Windows and Exterior Doors – This bulletin provides information on inspection and maintenance

to ensure long-term performance of windows and exterior doors.

#3: Avoiding Condensation Problems – Learn why condensation forms, why it is a concern, how to address existing problems and how to avoid future problems.

#2: Maintaining Your Roof – Read about the types of roofs, their maintenance requirements and how to identify and address common issues.

#1: Paints, Stains and Coatings – This bulletin provides information about types of paints, stains and coatings and how they should be applied and maintained.

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Disciplinary Decisions

Since the February 2012 *Report from Council* newsletter, the following actions have been taken as a result of disciplinary hearings and Consent Orders conducted by the Council.

Trading Services

Fatima (Tina) Maria Cooper Richard Thomas Valouche

ISSUE: Fatima (Tina) Maria Cooper, currently unlicensed, entered into a Consent Order with the Council that, while licensed as a representative, with TRG The Residential Group Realty Ltd. dba TRG The Residential Group Realty, Vancouver, she committed professional misconduct within the meaning of section 35(1)(a) and 35(1)(d) of the *Real Estate Services Act* in that she:

(a) contrary to section 3(1)(a) of the *Real Estate Services Act*, provided real estate services on behalf of another when she was not licensed to provide those services, in that she provided rental property management services to a suite owner and to other suite owners by entering into lease agreements on behalf of the suite owner and the other suite owners in the building, either on her own or in the name of 625873 BC Ltd.;

(b) contrary to section 3(1)(a) of the *Real Estate Services Act*, provided real estate services on behalf of another when she was not licensed to provide those services, in that she provided rental property management services to the suite owner by repaying the security deposit to the tenant in the suite, by way of a cheque issued by 625873 BC Ltd.;

(c) contrary to section 3(1)(a) of the *Real Estate Services Act*, provided real estate services on behalf of another when she was not licensed to provide those services in that she provided rental property management services to the suite owner and to the other suite owners by managing landlord tenant matters and, in particular, by advising the suite owner and the other suite owners on steps to take if tenants take legal action;

(d) contrary to section 3(1)(a) of the *Real Estate Services Act*, provided real estate services on behalf of another when she was not licensed to provide those servic-

es, in that she provided rental property management services to the suite owner by signing a receipt for rent, in her own name or the name of 625873 BC Ltd.;
(e) contrary to section 7(3)(a) of the *Real Estate Services Act*, provided real estate services other than on behalf of the brokerage in relation to which she was licensed, in that she provided the real estate services set out in one or more than one of paragraphs (a) to (e) above, either on her own or through 625873 BC Ltd.; and
(f) contrary to section 3-2(2) of the Council Rules, failed to keep her managing broker informed of real estate services provided, in that she failed to inform her managing broker of the activities set out in one or more than one of paragraphs (a) to (e) above.

ISSUE: Richard Thomas Valouche, managing broker, TRG The Residential Group Realty Ltd. dba TRG The Residential Group Realty, Vancouver, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:

(a) contrary to section 6(2) of the *Real Estate Services Act*, failed to be in control and conduct of the brokerage's real estate business, including supervision of the associate brokers and representatives who were licensed in relation to the brokerage, in that he permitted the contraventions by Ms. Cooper of the Act and/or Rules as set out in one or more than one of paragraphs (a) and (e) above; and
(b) contrary to section 3-1(1) of the Council Rules, failed to ensure that the business of the brokerage was carried out competently and in accordance with the Act and Rules, in that he permitted the contraventions by Ms. Cooper of the Act and/or the Rules as set out in one or more than one of paragraphs (a) to (e) above.

RESULT: Fatima (Tina) Marie Cooper was ordered to not apply for licensing for at least 28 days from the date of the Order or until after April 2, 2012. Further, she was ordered to successfully complete the Real Estate Trading Services Remedial Education Course as a condition of continued licensing. Further, Ms. Cooper was ordered

that, upon relicensing, she is to provide a copy of the Consent Order to her managing broker, who must acknowledge in writing to the Council no later than fourteen (14) days after receipt that he or she has received and reviewed the Consent Order. Further, she was ordered to be under the direct supervision of her managing broker for a period of twelve (12) months from the date of relicensing and that, during the period of supervision, the managing broker must provide quarterly reports to the Council commencing ninety (90) days after Ms. Cooper first becomes licensed indicating that he or she had reviewed Ms. Cooper's contracts and other work in general and, to the best of his or her knowledge, that Ms. Cooper has complied with the Act, its Regulation, Bylaws and Council Rules. During the twelve (12) month period, the managing broker or any successor managing broker will immediately report to the Council anything of an adverse nature with respect to Ms. Cooper's activities.

RESULT: Richard Thomas Valouche was reprimanded and ordered to pay a discipline penalty to the Council in the amount of \$2,000.00.

RESULT: Fatima (Tina) Maria and Richard Thomas Valouche were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Sotirios (Sotos) Argyropoulos

ISSUE: Sotirios (Sotos) Argyropoulos, currently unlicensed, entered into a Consent Order with the Council that, while licensed as a managing broker with Homevestors Realty Ltd., now known as Invigo Realty Ltd., Surrey, he committed professional misconduct within the meaning of section 35(1)(a) and (d) of the *Real Estate Services Act* in that he failed, contrary to section 6(2) of the *Real Estate Services Act* and section 3-1 of the Council Rules, to be actively engaged in the management of the brokerages (Homevestors Realty and Invigo) and to ensure that the business of the brokerages was carried out competently and in accordance with the Act, Regulations, Council Rules and

Disciplinary Decisions, *cont'd*

Bylaws and failed to ensure that there was an adequate level of supervision for representatives performing duties on behalf of the brokerages by:

(I) in relation to Homevestors Wealth and Homevestors Realty:

(a) allowing Homevestors Wealth to provide real estate services when not licensed to do so, contrary to section 3(1) of the *Real Estate Services Act*;

(b) allowing licensees to provide real estate services separately from their brokerages, through Homevestors Wealth, contrary to section 7(3) of the *Real Estate Services Act*;

(c) allowing a licensee to accept remuneration related to the provision of real estate services directly from Homevestors Wealth, contrary to section 7(3) of the *Real Estate Services Act*;

(d) failing to ensure that documents related to real estate services were submitted to him promptly upon execution, contrary to section 3-2(1) of the Council Rules;

(e) allowing a licensee and Homevestors Realty to represent and obtain remuneration for real estate services provided to a client who was under an exclusive buyer's agency agreement with another brokerage, contrary to section 3-3(1)(a) of the Council Rules;

(f) allowing Homevestors Realty to provide real estate services through Homevestors Wealth, an unlicensed brokerage, contrary to section 7(5)(a) of the *Real Estate Services Act*;

(g) failing to ensure that a licensee paid or delivered money received from clients for membership fees in Homevestors Wealth, an unlicensed brokerage, related to the real estate services the licensee was providing or offering to provide to those clients through Homevestors Wealth, contrary to section 27(1)(a) of the *Real Estate Services Act*;

(h) failing to ensure that licensees, including himself, who were associated with Homevestors Realty displayed the name of their brokerage prominently and in an easily readable manner in their online profiles, contrary to section 4-6(2) of the Council Rules;

(i) allowing two licensees associated with Homevestors Wealth or Homevestors Realty or both to engage in misleading advertising, contrary to section 4-7 of the Council Rules;

(j) allowing Homevestors Wealth or

Homevestors Realty or both to pay remuneration to Homevestors Wealth, an unlicensed brokerage, for providing services for which a licence is required, contrary to section 6-1 of the Council Rules; and

(k) allowing Homevestors Wealth and its licensees to provide real estate services on behalf of Homevestors Wealth when it was neither a principal nor licensed nor exempt in relation to those services, contrary to section 6-2 of the Council Rules;

(II) in relation to Invigo Realty:

(a) failing to ensure sales and rent-to-own trust transactions were prepared in a timely manner, contrary to sections 8-2 and 8-3 of the Council Rules;

(b) failing to ensure that trade record sheets were always prepared and retained, contrary to section 8-5 of the Council Rules;

(c) failing to ensure that cheques for the Invigo's membership fees trust account and the deposit books for all of Invigo's trust accounts were designated as being "in trust", contrary to section 26 of the *Real Estate Services Act* and section 7-4(3) of the Council Rules;

(d) failing to ensure that, in all cases, trust deposits received by Invigo were made payable "in trust", contrary to section 27 of the *Real Estate Services Act*;

(e) allowing service charges to be withdrawn from Invigo's sales and membership fees trust accounts, contrary to section 30 of the *Real Estate Services Act*;

(f) failing to ensure that Invigo's name was displayed prominently on its web site home page, contrary to section 4-6(2) of the Council Rules;

(g) failing to ensure that licensees associated with Invigo ceased to identify themselves on the internet as being associated with Homevestors Realty despite the change in its name to Invigo, contrary to section 4-7 of the Council Rules; and

(h) failing to ensure that in every transaction where Invigo and its licensees acted as the agent for buyers, Invigo and the licensees disclosed to the buyers the amounts of remuneration that Invigo and its licensees would receive, contrary to section 5-8 and 5-11 of the Council Rules.

RESULT: Sotirios (Sotos) Argyropoulos' primary and secondary licences as a managing broker, which licences are currently inoperative, be suspended for twenty-one (21) days from March 28, 2012 to April 17, 2012 (inclusive), but

that he is immediately eligible to be licensed as an associate broker or representative. Mr. Argyropoulos was ordered to pay a discipline penalty to the Council in the amount of \$1,000.00; successfully complete the Real Estate Trading Services Remedial Education Course; pay \$609.37 to the Council, being one-half of the Council's fees for conducting the office and records inspections at the brokerages for which Mr. Argyropoulos was, at the material times, the managing broker; and pay enforcement expenses to the Council in the amount of \$1,000.00.

Steven Kwok Wai Wong

ISSUE: Capital Pacific Realty Ltd., Vancouver, entered into a Consent Order with the Council in which it consented to an Order that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by contravening section 7-7(1)(b) of the Council Rules in that it failed to file an Accountant's Report with the Council by the prescribed date.

ISSUE: Steven Kwok Wai Wong, managing broker, Capital Pacific Realty Ltd., Vancouver, entered into a Consent Order with the Council in which he consented to an order that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* by not fulfilling his responsibilities as managing broker for the performance of the duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act* by contravening section 3-1(1)(a) and (b) and 3-1(3) of the Council Rules in that he failed to ensure that the said Accountant's Report was filed with the Council by the prescribed date.

RESULT: Capital Pacific Realty Ltd. was reprimanded and ordered to pay a discipline penalty to the Council in the amount of \$2,000.00.

RESULT: Steven Kwok Wai Wong was reprimanded.

RESULT: Capital Pacific Realty Ltd. and Steven Kwok Wai Wong were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

Disciplinary Decisions, *cont'd*

Peter Maclean Chancey

ISSUE: Peter MacLean Chancey, representative, Greyfriars Realty International Ltd., Surrey, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he, in the proposed sale of property to R and MD, as buyers, by a Contract of Purchase and Sale and also to CA and SA, as buyers, by a different Contract of Purchase and Sale, contravened section 3-4 of the Council Rules by failing to ensure that the backup offer contained a “backup offer” clause that it was subject to the seller ceasing to be obligated under the previously accepted Contract of Purchase and Sale.

RESULT: Peter MacLean Chancey was reprimanded, and was ordered to pay a discipline penalty to the Council in the amount of \$1,000.00, to successfully complete the Real Estate Trading Services Remedial Education Course, and pay enforcement expenses to the Council in the amount of \$1,000.00.

Nancy Yan Yan Chan

ISSUE: Nancy Yan Yan Chan, associate broker, Sunrich Realty Ltd. dba Amex Sunrich Realty, Richmond, entered into a Consent Order with the Council that she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she contravened section 3(1)(a) of the *Real Estate Services Act* by providing strata management services when she was not licensed to do so.

RESULT: Nancy Yan Yan Chan was reprimanded and ordered to pay enforcement expenses to the Council in the amount of \$1,000.00.

Rental Property Management Services

Garry Wayne Pawluck

Homelife Salmon Arm Realty.com Ltd.

ISSUE: Garry Wayne Pawluck, managing broker, Salmon Arm Realty.com Ltd. dba Homelife Salmon Arm Realty.com, Salmon Arm, entered into a Consent Order with the Council that, while providing rental property management services to the owners (landlords) of a rental property and in their lease of the rental property to the tenants, committed professional misconduct within the meaning of sections 35(1)(a) and 6(2) of the *Real Estate Services Act*, and section 3-1(1) of the Council Rules, in that he:

(a) failed to ensure that the brokerage rental property management services agreement included:

(i) the timing, frequency and nature of the accounting statements and other records to be provided by the brokerage;

(ii) how security deposits or other deposits were to be dealt with; and

(iii) a description of the records to be kept by the brokerage on behalf of the landlord; contrary to sections 3-1(1) and (3), 3-4, 5-1(5)(c), (d) and (e) of the Council Rules; and

(b) failed to ensure that the brokerage provided records referred to in section 8-6 of the Council Rules to the landlords no later than the date that is 4 weeks following the date of the termination, being September

1, 2009, contrary to sections 3-1(1) and (3), 3-4 and 8-6(4)(b) of the Council Rules.

ISSUE: Salmon Arm Realty.com Ltd. dba Homelife Salmon Arm Realty.com, Salmon Arm, entered into a Consent Order with the Council that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it:

(a) failed to include in its rental property management agreement with the landlord: (i) the timing, frequency and nature of the accounting statements and other records to be provided by the brokerage;

(ii) how security deposits or other deposits were to be dealt with; and

(iii) a description of the records to be kept by the brokerage on behalf of the landlord; contrary to sections 3-4, 5-1(5)(c), (d) and (e) of the Council Rules; and

(b) provided records referred to in section 8-6 of the Council Rules to the landlords by no later than the date that is 4 weeks following the date of the termination being September 1, 2009, contrary to sections 3-4 and 8-6(4)(b) of the Council Rules.

RESULT: Garry Wayne Pawluck was reprimanded.

RESULT: Salmon Arm Realty.com Ltd. dba Homelife Salmon Arm Realty.com was reprimanded.

RESULT: Garry Wayne Pawluck and Salmon Arm Realty.com dba Homelife Salmon Arm Realty.com were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00. ■

Feedback?

Please send any comments about the *Report from Council* newsletter to:

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