

CIMBL ICCPH

CANADIAN INSTITUTE OF MORTGAGE BROKERS AND LENDERS
INSTITUT CANADIEN DES COURTIERS ET DES PRÊTEURS HYPOTHÉCAIRES

April 28, 2006

Mr. Robert Myroniuk
Executive Director
Real Estate Council of Alberta
340, 2424 – 4th Street SW
Calgary, Alberta
T2S 2T4

Dear Mr. Myroniuk:

Re: Updated RECA Rule Changes under the Real Estate Act

On behalf of the over 1,000 members of the Canadian Institute of Mortgage Brokers and Lenders (CIMBL) in Alberta and as a follow up to our original letter dated February 28, 2006 we offer the following comments with regard to the updated proposed rule changes that the Real Estate Council of Alberta (RECA) has circulated for review and comment.

First, we wish to acknowledge and thank RECA for some of the changes it has made to the updated proposed rules. Chief among these in the introduction of a “simple referral” concept that will allow the forwarding of a potential borrower’s name and contact information, but will not allow unlicensed brokers or agents to participate in mortgage activity. This is very similar to the current practice in other provinces notably British Columbia and Ontario where such a concept also exists. CIMBL supports any and all efforts towards harmonization of standards.

We wish to focus our comments on the subject of disclosure and RECA’s proposals for mortgage professionals. CIMBL supports enhanced borrower disclosure. We believe that it is appropriate and necessary to increase the overall professionalism of the mortgage industry to benefit borrowers. It is simply a matter of how best to achieve this objective.

RECA’s disclosure proposals are not unique and in fact the disclosure of incentives, fees, commissions and conflict of interest situations is also a current issue in Ontario. As RECA is aware, CIMBL created a Task Force on consumer disclosure earlier this year. Task Force members represent all facets of the mortgage industry including brokers, agents, lenders and insurers. CIMBL’s Task Force has met several times over the past few months and concluded that the best way to address borrower disclosure was to produce a short, concise disclosure document that would cover the areas mentioned in both RECA’s and Ontario’s draft rule changes and regulations. Our proposed disclosure form goes much further than British Columbia’s Form 10 and utilizes a check box model so that mortgage professionals inform borrowers about how they are compensated and what, if any, conflicts they may have.

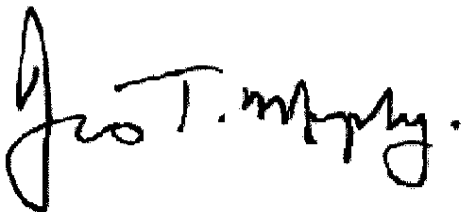
CIMBL will be presenting its disclosure form to a consumer focus group on Monday, May 1st. We will also be forwarding it to our legal counsel for final review and comment. Once these two actions are completed we will forward RECA, along with other regulators, a copy of the borrower disclosure form and the results of the focus group.

The one issue that remains outstanding is the disclosing of exact remuneration amounts. CIMBL wishes to be clear. After much consultation with our Executive, Board, Task Force and members we strongly oppose the disclosure of exact dollar amounts by mortgage professionals in Alberta and any other province. We do so for the following reasons:

1. Insurance regulators who are also examining this same issue have decided not to mandate disclosure of actual remuneration figures. In a Toronto Star article dated February 15, 2006 Grant Swanson chair of the national insurance regulators committee stated, "What the consumer really wants to know is that they are getting a product that is suitable to their needs and that's at a competitive price." CIMBL agrees.
2. Remuneration can not be determined when one mortgage is finalized or completed. Remuneration for a mortgage professional may be dependent upon the actual number of mortgages that are placed with a particular lender over the course of the year and the overall mortgage volume that may be placed with one lender over the course of a year. In addition, other issues such as the split between brokerage houses and mortgage professionals also vary and would add a significant degree of complexity to determining actual remuneration amounts.
3. In most transactions, mortgage professionals serve both the lender and borrower in the best way they are able, and are paid in the vast majority of cases by the lender, not the borrower. Mortgage professionals have an obligation to serve the needs of both the lender and borrower, so unlike real estate agents, mortgage professionals do not have the fiduciary responsibilities that a real estate agent would have.
4. Currently, as far as CIMBL is aware no other jurisdiction in Canada requires the disclosure of exact remuneration amounts for mortgage professionals. British Columbia, the only province to currently mandate consumer or borrower conflict of interest disclosure, presents an open ended one page form. Ontario, which is in the process of updating its mortgage legislation, will mandate the disclosure of incentives, fees and commissions along with conflict of interest situations, but has not stated in meetings with the mortgage industry that it will call for the disclosure of exact remuneration amounts.

CIMBL would be pleased to follow up with RECA on any of the areas identified in our letter. We thank you for the opportunity to input and for your continuing availability in reviewing and explaining the rule changes.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim T. Murphy". The signature is written in a cursive style with a large initial "J" and a distinct "T" and "M".

Jim Murphy
Senior Director of Government Relations and Communications

Cc: Eric Stewart, RECA
Richard Parker, RECA
Kirk Bacon, RECA
AMBA