



BRITISH COLUMBIA
REAL ESTATE
ASSOCIATION

the bulletin

BCREA Spring Survey: REALTOR® Feedback

Staying in touch with the perspectives, opinions and needs of its REALTOR® members is of great importance to the Association, so BCREA once again participated in the Canadian Real Estate Association's (CREA) Annual Spring Membership Survey.

Working together with its member boards, BCREA submitted seven questions to CREA's national survey. Carried out by Inshtrix Research, the BCREA Spring Membership Survey results were collected between May 12 and June 4 with a total of 3,653 emailed surveys completed by the Association's members, achieving a response rate of 20.5 per cent.

Key findings of the survey indicated that 72.5 per cent of respondents felt the Professional Development Program (PDP) had been 'effective' in improving REALTOR® professionalism, with almost 20 per cent describing it as 'very effective'. These results show that REALTORS® acknowledge the work that BCREA is carrying out as part of its strategic goal to "help REALTORS® be recognized as knowledgeable and trusted professionals" through continuing education.

With numerous government relations initiatives facilitated over the past few years, the Association was pleased to see that 77 per cent of respondents reported that BCREA and member boards providing input to government on issues affecting REALTORS® and the real estate sector was 'very important'. BCREA's government relations focus over the past year has largely been dominated by lobbying for

improved housing affordability and lowered shelter taxes.

However, almost 90 per cent of respondents were unaware of BCREA's Shelter Tax website (www.bcrea.bc.ca/shelbertaxes). In the fall 2009 REALTOR® survey, over 45 per cent of REALTORS® indicated they were aware of the Harmonized Sales Tax (HST) Action website, the original name of the site. The dramatic decline in awareness indicates that BCREA can do more to promote the Shelter Tax website. The site focuses both on the HST and how it applies to the real estate industry, as well as the Property Transfer Tax (PTT). The site was renamed the Shelter Tax Website in April 2010 to coincide with the annual Government Liaison Days in Victoria where shelter taxes were the main focus. BCREA encourages REALTORS® to use this valuable resource and direct their clients to take advantage the site.

Similarly, BC REALTORS® responded to CREA's section of the survey by indicating that the www.howrealtorshelp.ca website, which was developed by CREA, had only been visited by 31 per cent of respondents. This useful resource, which is the key landing site for CREA's National Ad Campaign, includes valuable information such as responses to frequently asked questions for both buyers and sellers and information on what a REALTOR®'s commitment means.

All in all, the BCREA Spring Membership Survey shows that the Association's initiatives are well received and BCREA will continue to stay committed to ensuring the continued relevance



of REALTORS® in British Columbia.

To view the entire BCREA Spring Membership Survey, visit the research portlet on BCREA's Publications and Economics REALTOR Link® page (www.realtorlink.ca).

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President's Report

Leadership

In June, volunteer leaders in organized real estate from across the province gathered in Whistler for the BCREA Leadership Conference, which happens every two years.

The focus of the this year's conference was 'Advancing the Profession' and for one and a half days, we encouraged your elected representatives to think about what it means to be a leader, rather than a manager.

People often confuse leadership with management, but they are really very different. They sometimes describe the difference as leadership is doing the right thing and management is doing things right. Another way to describe the difference between leadership and management is that leaders lead people and managers manage tasks.

Our goal at Leadership was to help us all become more strategically focused and instead of telling people what to do, learning how to inspire and motivate people to drive themselves.

To think about how we can – together – overcome the challenges that will face our

profession over the coming years. At the Leadership conference, we learned that if we engage with each other and discuss the challenges ahead, we realize that we are more alike than we are different.

The market is continually changing and the only way for us to remain relevant as REALTORS® is to ensure that we remain fearless in our pursuit of positive change that benefits us all.

As I mentioned in my last report, if we fail to embrace change and move forward, we risk becoming irrelevant to our clients.

At BCREA, we are working to make education more accessible and relevant to all REALTORS® across the province. We are encouraging real estate boards to explore better ways of providing higher quality service to members. We are working together with the provincial government to help make housing more attainable for British Columbians by reducing shelter taxes.

Together with your help, and provided that we are all prepared to accept that change is positive and inevitable, our volunteer



President **Moss Moloney**

leaders can be fearless in the pursuit of positive changes.

Let's be fearless!

Moss Moloney
President



Board of Directors 2010-2011

Core Ideology	Officers	Regional Directors
<p>Core Purpose Ensuring the continued relevance of REALTORS® in BC.</p> <p>Core Values</p> <ul style="list-style-type: none"> • Member board vitality • REALTOR® success • REALTOR® professionalism • Quality of Life <ul style="list-style-type: none"> - Economic vitality - Housing opportunities - Environmental preservation - Property owner rights - Better communities • Public trust 	<p>President Moss Moloney 604.590.4888 mmoloney@axionet.com</p> <p>Vice President Rick Valouche 604.629.6100 rick@valouche.com</p> <p>Past President John Tillie 800.976.5566 john@johnillie.com</p> <p>Chief Executive Officer Robert Laing 604.742.2787 rlaing@bcrea.bc.ca</p>	<p>Region I Delores St. Amand 250.564.4488 delorespg@shaw.ca</p> <p>Region II Sharron Billey 250.426.3355 sharronbilley@cranbrookagencies.com Joe Pearson 250.549.4161 joe@okanagahomes.com</p> <p>Region III Barbara Gallie 250.478.6530 bgallie@shaw.ca Jennifer Lynch 250.247.2088 lynch@discovergabriola.com</p> <p>Region IV Eugen Klein 604.684.8844 eugenklein@shawcable.com W. Dave Watt 604.926.6011 wdavewatt@telus.net Sandra Wyant 604.460.2831 sandrawyant@shaw.ca</p> <p>Region V Jim McCaughan 604.855.0800 jamesmccaughan@hotmail.com Hanne Selby 604.795.2955 hselby@uniserve.com</p>

Education

New Version of *Condominium Manual* Available to Order

Recognized for his ability to describe legal matters in plain terms, lawyer and continuing professional education (cpe) course instructor, Mike Mangan has published the third edition of the popular *Condominium Manual: A Comprehensive Guide to the Strata Law in British Columbia*. This latest edition captures all significant legislative changes and court cases since 2004, including the December 2009 amendments to the *Strata Property Act*.

The *Condominium Manual* has long been recognized as the standard guide for condominium owners, including strata council members and investors, and real estate professionals across the province. As an essential resource for anyone who wants to have a deeper understanding of strata law, the manual provides extensive new coverage concerning strata repairs, lawsuits, arbitrations and insurance.

Written in Mike's trademark plain language style, the guide covers the full range of strata law, especially updates in connection with dozens of court cases over the past six years.

Mike is a familiar face to many licensees across the province. He has helped design programs to teach real estate licensees, lawyers and notaries how to avoid claims and is also the principal author of the required cpe course for the second cycle of PDP, *Real Estate E&O Insurance Legal Update 2010*. As an invaluable resource to the real estate industry, Mike is contacted regularly for input on comprehensive annual reviews of court cases, decisions made by the Real Estate Council of BC and new legislation affecting real estate licensees.

The *Condominium Manual* is now available to order from the BCREA website at



www.bcrea.bc.ca/publications/publications.htm. There are three options for ordering: either a hard copy for \$49.95, a hard copy plus a one-year online subscription for \$64.95 or a hard copy plus a two-year online subscription for \$74.95.

Education

ACRE's Competition Law and REALTORS® Course

To provide REALTORS® with practical compliance guidelines and assist licensees in abiding by Canadian competition law, BCREA has a new addition to its continuing professional education (cpe) course list. The Alliance for Canadian Real Estate Education's (ACRE) *Competition Law and REALTORS®: What You Say and Do Matters*, will soon be available to BC REALTORS® as an elective Professional Development Program (PDP) course.

This national competition law course for REALTORS® was prepared for ACRE by Steve Szentesi, a Canadian competition lawyer working in association with Vancouver law firm, Norton Stewart. He has practiced competition law in Canada

and England and was formerly the in-house competition counsel for the Canadian Real Estate Association (CREA).

ACRE's course was designed with the assistance of CREA to help licensees understand and comply with Canadian competition law. Although the law applies to all real estate professionals, the course materials were specifically designed for REALTORS®, with a plain language overview of competition law illustrated by a number of case studies. Topics of interest to licensees include conspiracies, misleading advertising and price maintenance problems.

This valuable course is intended to

provide practical and clear guidance to assist REALTORS® in recognizing and avoiding competition law issues, while at the same time encouraging continued healthy competition in the real estate services sector.

BCREA looks forward to adding *Competition Law and REALTORS®: What You Say and Do Matters* to the list of cpe courses this fall.

To view an up-to-date list of upcoming PDP and Relicensing Education Program (REP) accredited cpe courses, login to REALTOR Link® (www.realtorlink.ca) and visit the cpe schedule from BCREA's homepage.

The Armchair Analyst: Components of Population Growth



BCREA Chief Economist
Cameron Muir

In previous issues of the Armchair Analyst, we discussed how demand and supply factors influence home prices, how mortgage interest rates are derived and how eroding affordability can offset many of the benefits of improving economic conditions. This month, we look at the components of population growth and their impact on long-term housing demand.

Popular University of Toronto demographer David Foot once said, “Demographics explain about two-thirds of everything.” It certainly plays an important role in our housing market. It’s a simple equation: the more the population grows, the more new households are formed and more housing will be demanded, all other things being equal. A shrinking population, on the other hand, can virtually halt new construction activity and can even result in a ghost town.

BC’s population recently crested the 4.5 million people mark and currently leads all other provinces in the rate of population growth. While the province comprises 13 per cent of the Canadian population, it garners 19 per cent of national population growth. In fact, all four western provinces have growth rates stronger than the

national average. What’s more, BC’s enviable position is further bolstered by the composition of its growing population.

While the natural rate of increase (births less deaths) accounts for about 19 per cent of BC’s population growth, it has little impact on housing demand as individuals born today won’t likely be in the housing market for decades. By far, the largest component of population growth is immigration. More than 70 per cent of the increase in the provincial population is attributable to net international migration which added an additional 51,000 people to the province last year. In fact, from an economic perspective, BC attracts the cream of the crop when it comes to immigrants.

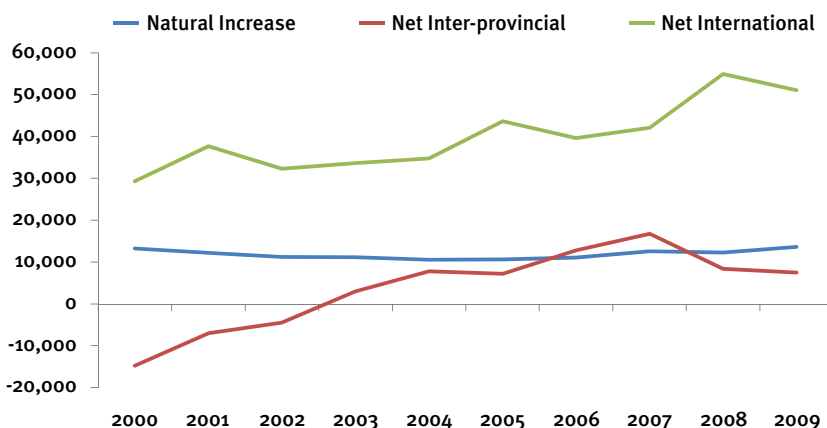
More than half the investor class immigrants to Canada settle in BC, and three-quarters of them are from China, BC’s top source country of immigrants. In stark contrast, Ontario attracts more than half the refugee class immigrants that come to Canada, with just 7 per cent destined for BC. So immigrants to BC are likely to have greater financial resources than immigrants to Ontario.

Some, as in the case of many newly landing immigrants on Vancouver’s tony Westside, have significant wealth.

BC is also in the number one slot in its share of migrants originating from other provinces. The popularity of Alberta as the go-to employment province has waned along with the downturn in the oil patch. Over the last three quarters, 5,000 more people left Alberta destined for another province than arrived. Coincidentally, BC was the top destination for inter-provincial migrants over the same period.

What matters is that a growing population helps underpin housing demand and price levels. It also supports expansion of the housing stock through new home construction, not to mention the jobs that go along with it. A growing population can help smooth out the oscillation of the business cycle by bolstering consumer demand during a slowdown, as well as set the stage for a more robust recovery. The long-term investor as well as armchair analyst can benefit from an understanding of a region’s population dynamics. Even the age-specific components can be revealing. For example, approximately 40 per cent of all home sales through the Vancouver Island Real Estate Board were retirees last year. Now that’s impressive!

Population Growth: British Columbia



Source: Statistics Canada

Financial Clauses

By Brian Taylor, Lawyer at Bull, Housser & Tupper

When drafting subject to financing clauses for Contracts of Purchase and Sale, what is the appropriate form of subject clause to include?

The Real Estate Council of British Columbia recommends the use of very specific subject to financing clauses in the *Professional Standards Manual*. For example:

“Subject to a new first mortgage being made available to the Buyer by (*Date*), in the amount of \$ (*amount*) at an interest rate not to exceed ____% per annum calculated (*select either half-yearly or monthly*), not in advance, with a ____-year amortization period, ____-year term and repayable in blended payments of approximately \$ (*amount*) per month including principal and interest (plus 1/12th of the annual taxes, if required by the mortgagee)” (“**Clause A**”).

However some REALTORS® sometimes use the more general:

“Subject to the Buyer obtaining financing satisfactory to the Buyer” (“**Clause B**”).

To determine which clause is the appropriate clause to include, it is important to understand the effect that each of these clauses will have on a buyers’ obligations under a purchase and sale agreement.

The inclusion of a subject to financing clause is critical for the majority of buyers. However, if the wording of the subject clause is too subjective, the courts may find that there is no binding agreement between the parties, and that there is simply an offer from the buyer to the seller which can be revoked by the seller at any time. This risk is mitigated by the

presence of Clause 21 on BCREA’s standard Contract of Purchase and Sale which provides that as the offer is made under seal, the offer is irrevocable by the seller until the buyer fulfills or waives any conditions contained in the contract.

Although Clause B is subjective, the courts in British Columbia have held that the wording of Clause B is not so subjective as to make a Contract of Purchase and Sale void for uncertainty. They have reached this conclusion by implying an obligation on the buyer in these circumstances to “use his best efforts to obtain financing that was satisfactory to him, and he was not to withhold his satisfaction unreasonably.” The courts have held that “satisfactory” in the context of subject to financing clauses means “satisfactory to a reasonable person with all the subjective but reasonable standards of the particular purchaser.” Therefore, the inclusion of Clause B in a contract, along with the operation of Clause 21 of the standard Contract of Purchase and Sale, will ensure that there is an enforceable agreement between a seller and buyer.

If Clause B creates a legally binding agreement, in what situation would a buyer want to include the more specific Clause A?

While Clause A can be used in any situation it should be particularly used in situations where a buyer is looking to obtain financing in a specific amount, or at a specific rate that may not be easy, or reasonable, to obtain.

If a buyer has used Clause B and the nature of the financing that the buyer is looking to obtain is not what a reasonable

person would usually obtain, they may face a claim from the seller for not using their best efforts to remove the subject clause if they could not find the specific type of financing they required. If a buyer did not remove such a financing subject, and the seller wanted to complete the transaction, the seller could argue that the buyer was in breach of the purchase agreement as the buyer did not use their best efforts to obtain financing that was satisfactory to a reasonable person.

However if Clause A is used, and the specific unique amount or rate of financing that the buyer is looking to obtain is clear and set out in the subject clause, the courts will not imply the best efforts requirement as the clause is not subjective. Therefore, if the buyer cannot obtain the specific financing, they are not obligated to use best efforts to obtain financing that is satisfactory to a reasonable person with all the subjective but reasonable standards of the buyer.

While it is never bad practice to use the Council recommended Clause A (and similar subject to financing clauses set out in the *Professional Standards Manual*) the use of Clause B as a subject to financing clause will still work to create a legally binding agreement of purchase and sale but may not be appropriate where a buyer has unique requirements with respect to the type of financing that they are looking to obtain.

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Current as of July 22, 2010. Check with your local board office for last-minute changes. The complete **cpe** catalogue is available on BCREA's REALTOR Link® homepage (www.realtorlink.ca).

Note: this is a schedule of BCREA **cpe** courses only and does not reflect all PDP-accredited courses. Each course on this schedule is assigned 6 PDP credits, unless otherwise indicated, and all courses that are also REP accredited are full-day courses and have been marked with an asterisks (*).

BC Northern Real Estate Board

- SEPTEMBER 9, TERRACE**, *Negotiating and Presenting Offers*
- SEPTEMBER 16, 100 MILE HOUSE**, *Real Estate E&O Insurance Legal Update 2010**
- SEPTEMBER 24, FORT ST. JOHN**, *Negotiating and Presenting Offers*
- OCTOBER 1, PRINCE GEORGE**, *Real Estate E&O Insurance Legal Update 2010**
- OCTOBER 18, PRINCE GEORGE**, *Know Your Product*

Chilliwack and District Real Estate Board

- SEPTEMBER 29, CHILLIWACK**, *Real Estate E&O Insurance Legal Update 2010**
- OCTOBER 27, CHILLIWACK**, *CONDO 101: Strata Law for REALTORS®**

Fraser Valley Real Estate Board

- SEPTEMBER 1, SURREY**, *Win/Win: Conflict Resolution Skills for REALTORS®*
- SEPTEMBER 10, SURREY**, *Real Estate E&O Insurance Legal Update 2010**
- SEPTEMBER 24, SURREY**, *Representing Buyers in the Sale of New Homes and Condominiums**
- OCTOBER 1, SURREY**, *What Brokerages and REALTORS® Need to Know About Agency**
- OCTOBER 6, ABBOTSFORD**, *CONDO 101: Strata Law for REALTORS®**
- OCTOBER 15, SURREY**, *CONDO 202: Advanced Strata Law for REALTORS®**

Kamloops and District Real Estate Association

- SEPTEMBER 22, KAMLOOPS**, *Real Estate E&O Insurance Legal Update 2010**
- SEPTEMBER 23, KAMLOOPS**, *CONDO 202: Advanced Strata Law for REALTORS®**

Kootenay Real Estate Board

- SEPTEMBER 28, CRANBROOK**, *Real Estate E&O Insurance Legal Update 2010**
- SEPTEMBER 29, NELSON**, *Real Estate E&O Insurance Legal Update 2010**

Northern Lights Real Estate Board

- OCTOBER 18, DAWSON CREEK**, *Real Estate E&O Insurance Legal Update 2010**

Okanagan Mainline Real Estate Board

- SEPTEMBER 8, VERNON**, *Selling Tenant-Occupied Properties (STOP)**
- SEPTEMBER 9, KELOWNA**, *Selling Tenant-Occupied Properties (STOP)**
- SEPTEMBER 15, VERNON**, *Real Estate E&O Insurance Legal Update 2010**
- SEPTEMBER 16, KELOWNA**, *Real Estate E&O Insurance Legal Update 2010**

OCTOBER 19, VERNON, *Liability for Contaminated Sites: New Practical Considerations for REALTORS®, Buyers and Sellers**

OCTOBER 20, KELOWNA, *Liability for Contaminated Sites: New Practical Considerations for REALTORS®, Buyers and Sellers**

Real Estate Board of Greater Vancouver

(all courses held at REBGV unless indicated)

*CONDO 202: Advanced Strata Law for REALTORS®**
AUGUST 30, SEPTEMBER 23, OCTOBER 27

*What Brokerages and REALTORS® Need to Know About Agency**
AUGUST 31, SEPTEMBER 8, SEPTEMBER 30, OCTOBER 12, OCTOBER 28

*CONDO 101: Strata Law for REALTORS®**
SEPTEMBER 2, OCTOBER 1

*Real Estate E&O Insurance Legal Update 2010**
**SEPTEMBER 9, SEPTEMBER 21, SEPTEMBER 24 (SUNSHINE COAST),
OCTOBER 7, OCTOBER 19, OCTOBER 22 (PITT MEADOWS)**

SEPTEMBER 10, SQUAMISH, *Risk Management for REALTORS®**
SEPTEMBER 14, *Selling Tenant-Occupied Properties (STOP)**
*Foreclosures and Court Ordered Sales**
SEPTEMBER 15, OCTOBER 20

SEPTEMBER 16, *Representing Buyers in the Sale of New Homes and Condominiums**

SEPTEMBER 17, *Win/Win: Conflict Resolution Skills for REALTORS®**
SEPTEMBER 27, *Disclosure Issues & Risks**

*Contracts: Keep on Top of Changes**
SEPTEMBER 29, OCTOBER 21

OCTOBER 4, *Electronic Title Searching**

OCTOBER 13, *Real Estate E&O Insurance Commercial Legal Update**

OCTOBER 14, SQUAMISH, *Know Your Product*

OCTOBER 15, COQUITLAM, *Negotiating and Presenting Offers*

South Okanagan Real Estate Board

OCTOBER 21, PENTICTON, *Negotiating and Presenting Offers*

OCTOBER 22, PENTICTON, *Win/Win: Conflict Resolution Skills for REALTORS®**

Vancouver Island Real Estate Board

SEPTEMBER 2, COURTENAY, *Ethics: Unlocking the REALTOR® Code*

SEPTEMBER 8, PORT ALBERNI, *Disclosure Issues & Risks**

SEPTEMBER 17, CAMPBELL RIVER, *Representing Buyers in the Sale of New Homes and Condominiums**

OCTOBER 6, NANAIMO, *Ethics: Unlocking the REALTOR® Code*

OCTOBER 22, COURTENAY, *Foreclosures and Court Ordered Sales**

Victoria Real Estate Board

(all courses held at VREB unless indicated)

SEPTEMBER 9, *Contracts: Keep on Top of Changes**

SEPTEMBER 15, *Disclosure Issues & Risks**

*Real Estate E&O Insurance Legal Update 2010**

SEPTEMBER 22, OCTOBER 5, OCTOBER 20 (SALT SPRING ISLAND)