

April 1, 2021

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Dear Micheal and Erin,

RE: Real estate teams

On behalf of the British Columbia Real Estate Association (BCREA) and our ten member real estate boards, I offer this collective response to your consultation on real estate teams. As you know, organized real estate collected feedback from REALTORS® in summer 2020 in anticipation of your interest in this area.

We agree with the statement in your discussion paper that “the regulatory framework would benefit from greater clarity about how team members should conduct their professional activities in order to comply with the Rules.” We also appreciate you consulting about real estate teams before drafting changes to the Rules.

For the most part, our feedback is organized according to the headings in your discussion paper.

About teams

While the regulatory perspective is that teams allow a group of licensees to represent the interests of a single client, from a practitioner perspective they form for a variety of reasons, including:

- larger sales volume and lead generation,
- families or partners wanting to work together,
- mentoring new licensees,
- improved work-life balance, such as more flexibility to allow Realtors to take time off or vacations or allowing team members to not be on call,
- specialization of skills, such as marketing and listings, resulting in better service to clients, and
- normalizing income to allow for more financial stability during difficult times.

We understand large teams operate quite differently and tend to rely more on team leaders than small teams do. Please carefully consider whether a single regulatory approach is suitable for all sizes and types of teams.

Defining “teams” in the Rules

Realtor feedback suggests that most will welcome a definition of “teams.” However, we urge you to gather more input and do more research to ensure the definition is as clear as possible. We raise the following questions:

- What thresholds will be used to determine whether licensees operate as teams? For example, does one co-listing indicate team behaviour? How many open houses? How many vacation coverages? Thresholds that are too low could deter mentoring of new licensees and put more licensees at risk of implied agency.
- Will you take a blanket approach to individuals who work in the same brokerage and share accommodations?
- How will “immediate family member” be defined?
- Some Realtors work together on specific aspects or areas of practice (e.g., commercial real estate), but not on all transactions. Would that still be allowed?

Requiring registration for all teams

Providing clarity to consumers and licensees seems to be the best reason to require registration of teams. However, likely only the most diligent consumers will and/or do search team names on the RECBC website. Consumers probably come into contact with advertising and real estate documents far more often than the registry of teams, which causes us to ask the following questions:

- Do you expect to retain s. 4-6(5) of the Rules as it is: If the council approves a team name for a group of related licensees, real estate advertising may also identify the group by this team name?
- Would you expect transaction documents to include the team name, names of all team members or both? We understand that RECBC currently provides inconsistent advice on this question.
- How would you anticipate using additional data on teams?
- Will teams that are currently registered have to re-register?

Team names and structures are essential to everyday real estate practice. With that in mind, we suggest a transition period of 60 days to give licensees enough time to learn about the changes, register and build their marketing plans. Because some advertising contracts and materials have longer timelines than 60 days, we expect the regulator to exercise leniency for the first year of implementation. We also expect the regulator to process team registrations quickly; this will likely require additional resources during the transition period.

If additional requirements are created regarding advertising and team names on transaction documents, then real estate boards, BCREA and the Canadian Real Estate Association may need up to six months to revise Multiple Listing Services® Systems, realtor.ca and standard forms.

The discussion paper twice mentions that family members are exempted from registering their teams. We understand that your proposal would eliminate this exemption. If you plan to include other exemptions, then please make that clear in the Rules.

Reserving the term “team” only for use by teams

We fully support grandfathering existing brokerage names that include the term “team” and we believe such grandfathering should continue indefinitely. Brokerages invest significant resources in advertising to ensure brand recognition, and so it seems punitive to require them to re-brand as a result of Rule changes.

Without statistics on brokerage names, we are hard pressed to suggest other terms that should be reserved for either teams or brokerages. A quick search on the RECBC website reveals that about 146 brokerages and/or branches use the term “group,” which suggests potential challenges in restricting the use of terms other than “teams.” “Associates” is another term that merits consideration.

Please also consider these questions:

- Will the regulator continue to ensure team names are unique?
- Will teams have to use the word “team” in their names? If so, then please grandfather existing team names that do not include “team” in their names.

Enhancing managing broker and brokerage control of teams

We support giving managing brokers authority to approve team formation and additions to teams, because they have supervisory duties, these may be hiring decisions and this information helps managing brokers understand who works together and how best to support them. We also welcome the “regulatory guidelines and related tools and resources” mentioned on p. 10 of the discussion paper to support managing brokers as they implement this new authority.

Even if a managing broker is unable to prevent someone from leaving or dissolving a team, they should be informed of such changes. Also, while unlicensed assistants will not be considered team members in your proposed changes, managing brokers should also be informed when assistants work with more than one team. This is important information for overall oversight of the brokerage and specifically for a managing broker’s duty to supervise advertising.

Other comments

BCREA understands that you do not intend to introduce Rule changes regarding real estate teams until after amalgamation with the BC Financial Services Authority. We appreciate that and strongly encourage you to wait until the new regulatory structure is firmly in place before introducing any significant Rule changes.

We look forward to further conversations about real estate teams and stand ready to provide additional input from a practical perspective.

BCREA is the professional association for about 23,000 Realtors in BC, focusing on provincial issues that impact real estate. Working with the province’s 11 real estate boards, BCREA provides continuing

professional education, advocacy, economic research and standard forms to help Realtors provide value for their clients.

Sincerely,



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Trevor Koot
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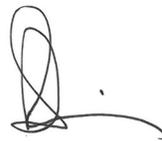
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