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January 15, 2020

Micheal Noseworthy
Superintendent of Real Estate
2800 – 555 West Hastings Street
Vancouver, BC V6B 4N6
Submitted by email: Micheal.Noseworthy@gov.bc.ca

Dear Mr. Noseworthy,

RE: Reframing the Role of Managing Brokers in BC

The British Columbia Real Estate Association (BCREA) appreciates your interest in the future of BC managing brokers. We know you have taken significant time and effort to consult and then to analyze the feedback.

Because managing brokers are critical to the current licensing structure, BCREA has also carried out a great deal of research. As you know, in 2017 and early 2018 we reached out to managing brokers regarding relevant recommendations made by the Independent Advisory Group.

After your office published the managing broker discussion paper in October 2019, we worked with member boards to hold seven focus groups with managing brokers all around the province. We also conducted a survey of all REALTORS®, because the concepts proposed could impact the entire profession.

Your discussion paper is well written and easy to read. However, some of the concepts and proposals lack detail, leaving them open to interpretation and making it difficult for BCREA, member boards and REALTORS® to provide as much feedback as you may have hoped for. We are most willing to discuss any of the following feedback in more detail, as needed.

With this letter, we summarize the information provided to BCREA by member boards and REALTORS®.

Opportunities

Like the Office of the Superintendent of Real Estate (OSRE), in our consultation we also asked about the major challenges faced by managing brokers. The increased compliance burden ranks number one among managing brokers and representatives. Therefore, REALTORS® have little appetite for additional compliance requirements that



provide no clear benefit to licensees or consumers. Managing brokers are also seriously concerned about the increased liability and risk they face, and will not favour requirements that increase the cost of compliance.

One overriding theme that emerged from BCREA's consultation is that managing brokers feel targeted rather than supported. As a result, they are looking for assistance, including opportunities to build communities and networks.

Another clear theme is that REALTORS® are proud of their profession and have a distinct interest in ensuring quality in the form of high standards of real estate practice and consumer protection.

Short- and Medium-Term Measures

We received input on all five measures described in the OSRE discussion paper. Each is addressed below, beginning with the measure that received the most support and ending with the one that received the least support.

1. Develop best practices and related resources for managing brokers

Recommendation: Implement this measure as soon as possible and on a sustained, continuous basis, in consultation with BCREA, member boards and managing brokers.

As noted above, managing brokers want and need support to help them keep up with the increasing burden of compliance. They make the following specific suggestions:

- professional advisors dedicated to managing brokers,
- concrete, consistent professional advice from the regulator that is provided quickly; it is important that any increases to the compliance burden of managing brokers include the regulator's interpretation of compliance protocols,
- updated Professional Standards Manual and Brokerage Standards Manual,
- standardized reporting and auditing procedures, and
- checklists for all licensees.

2. Provide more targeted re-licensing education for managing brokers

Recommendation: Implement this measure as soon as possible and on a sustained, continuous basis, in consultation with BCREA, member boards and managing brokers.

This measure is also popular among REALTORS®, with an expectation that the managing broker education is truly targeted to them and not just slightly altered content intended for all licensees. Managing brokers need quality, focused education.

If this is implemented, then please also acknowledge specific areas of practice, including strata management, property management, residential trading services and commercial trading services.

3. *Raise qualification standards for managing brokers*

Recommendation: Implement this measure in consultation with BCREA, member boards and licensees.

This measure is generally supported, though there is some concern that increasing the qualification standards for managing brokers will create another barrier to attracting new managing brokers.

If this is implemented, the focus needs to be on creating requirements based on a licensee's experience and competence, rather than the number of years they have been licensed. In addition, REALTORS® support and BCREA strongly recommends a thorough review of the Broker's Licensing Course to ensure its relevancy, and to increase applied practice opportunities within the course.

4. *Fill regulatory data and information gaps*

Recommendation: Provide more information about the data to be gathered, its uses, how it would be reported to licensees, as well as the frequency and complexity of reporting required by brokerages.

While REALTORS® are not opposed to this measure, it is clear that they do not fully understand what would be expected of them, how they would benefit, how consumers would benefit or exactly what would be collected.

5. *Require brokerages to develop and submit formal compliance plans*

Recommendation: Do not implement this measure as proposed.

Most participants in BCREA's consultation believe this is unnecessary, because brokerages already have compliance plans. If this is implemented, then the regulator needs to provide a template or other guidance so brokerages can be confident that their plans meet the requirements.

Managing brokers feel strongly that the regulator is responsible for establishing compliance standards. Managing brokers accept responsibility to meet standards, but those standards and expectations must be clear.

Other suggestions

In the short- and medium-term, REALTORS® believe there are other opportunities to help improve the landscape for managing brokers, consumers and all licensees.

Recommendation: Consult with BCREA, member boards and licensees to consider and possibly develop the following measures for the short- and medium-term:

- shifting liability away from managing brokers, possibly to both the brokerage and to representatives, though our consultation did not find a consensus; regardless of where the liability shifts, broker-owners should not end up with increased liability,
- mentorship for managing brokers and all licensees; mentorship for managing could include gradually increasing responsibilities within the brokerage, though this could depend on the size of the brokerage,
- higher education and qualifications to enter the profession—that is, for new licensees—not just for managing brokers,
- specific requirements for specific specialties, including commercial, and
- determine the number of licensees a managing broker should supervise, considering such factors as competency, compliance history, type and volume of transactions supervised, and of the representatives being supervised.

Long-Term Concepts

The high-level concepts proposed in the discussion paper prompted considerable discussion—especially the options that eliminate the managing broker role as it currently exists.

1. Status quo with an enhanced regulatory framework

Recommendation: Consult with BCREA, member boards and licensees to further develop all proposed enhancements and consider additional changes before implementing any of them.

This is the most popular concept among BCREA’s participants, perhaps because it is most familiar to licensees and because it maintains the managing broker role. Survey respondents are most supportive of the following enhancements described in the discussion paper:

- requiring managing broker approval of team formation and membership changes, and
- requiring associate brokers to requalify several years after completing the Licensing Course if they have not upgraded their licence to become a managing broker.

2. Single licensing (no managing broker)

Recommendation: Consult with BCREA, member boards and licensees to further understand the single licensing concept.

Single licensing was not supported by survey respondents, and generated mixed feedback among focus group participants.

BCREA encourages OSRE to look carefully at jurisdictions that have successfully implemented single licensing, such as Colorado and Indiana. In addition, perhaps single licensing could be modified to still include a manager role, as is the case in both of the jurisdictions already mentioned.

We urge caution on this concept. If it is implemented, then significant lead time is needed for adequate licensee education and competency to ensure consumer protection. This is seen as a very long-term measure because it represents a seismic shift in real estate practice in BC.

3. *Compliance officer*

Recommendation: Do not implement this measure as proposed.

REALTORS® generally do not support replacing the managing broker with a compliance officer. Some believe having a role solely focused on compliance would lead to over regulation, while many—especially from small brokerages—were concerned that their brokerage could not afford a compliance officer. REALTORS® are broadly concerned that this concept would be less beneficial to consumers.

Other suggestion

Managing broker discussions about the long-term future were wide ranging and quite creative. Due to the lack of detail in the discussion paper, participants offered a variety of interpretations and combinations of ideas in the paper and new insights.

Recommendation: Consult with BCREA, member boards and licensees to develop a hybrid model incorporating various elements from all three long-term concepts in the discussion paper.

Next Steps

The real estate regulatory structure is vitally important to all licensees, including managing brokers. With the government's November 12, 2019 announcement that OSRE and the Real Estate Council of BC (RECBC) will be integrated into the BC Financial Services Authority in 2021, BCREA is working hard to communicate the importance of retaining a governing council for the real estate licensing function (currently carried out by RECBC). We believe at least half of the members of this governing council should be licensees so the regulator can benefit from practical experience to help ensure sound policies and decision making.

Several of the proposals in the discussion paper seem focused on large brokerages, rather than small ones where the managing broker is also the owner. We urge OSRE to be vigilant in considering impacts of changes on both large and small brokerages and to not introduce measures that will increase the cost of compliance.

As you know, real estate licensees and consumers have been subjected to many changes in the last three years. We all urge you to take your time and fully consider the impacts of any new measures. BCREA will provide any support you need, and REALTORS® have demonstrated an outstanding willingness to share their expertise.

Above all, BCREA, member boards and REALTORS® want to ensure quality in their profession. I look forward to speaking with you about our response to your consultation.

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,



Darlene K. Hyde
Chief Executive Officer

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