

**LICENSING OF REAL ESTATE APPRAISERS
IN THE PROVINCE OF ALBERTA**

AN OVERVIEW

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December 2004

TABLE OF CONTENTS

BACKGROUND TO LICENSING OF REAL ESTATE APPRAISERS IN THE PROVINCE OF ALBERTA	1
Introduction.....	1
The Alberta Context.....	1
The United States Experience	4
The Canadian Experience	4
Alberta's Preference.....	5
Endorsement by AB Assoc AIC Members	5
The First Steps	6
Licensing in Alberta Oct 1, 2004	7

BACKGROUND TO LICENSING OF REAL ESTATE APPRAISERS IN THE PROVINCE OF ALBERTA.

Introduction

Society requires that individuals, companies, institutions and governments act and operate in a transparent manner. Transparency, as the word suggests, not only demands that the internal workings be open and apparent, but that the public or the consumer be allowed to actively participate. It is not surprising therefore, that self-regulation with public input is viewed as the best method to deliver the transparency promise.

The Alberta Association of the Appraisal Institute of Canada believes that licensing of real estate appraisers, which became law in Alberta on Oct 1 2004, is in the best interests of both the consumers of appraisal services and the appraisal profession at large. It was our view that “Licensing” was not so much a matter of “If” but rather “When and How?”. Before examining either of these questions, the bigger question of “Why?” must be understood.

The real estate appraisal profession, like other real estate industry disciplines, has experienced numerous changes over the last decade. One of the single largest influences has been the Appraisal Institute of Canada’s pursuit of delivering “accountability”. This pursuit included: establishment in April, 1988 of a self-administered professional liability insurance program; implementation in January, 1987 of a voluntary continuing education and re-certification program; subsequent implementation in January, 1992 of a mandatory re-certification program for designated members and finally, a mandatory program of Continuing Professional Development for both designated members and candidates in 2002. Part and parcel of these initiatives was the concurrent reorganization of the Appraisal Institute of Canada, which together with other objectives, facilitated the future prospect of provincial licensing.

To some extent, these initiatives have been self-serving. When the near total collapse of the saving and loans industry in the United States prompted “imposed” state licensing of appraisers, the Canadian choices appeared simple. Be proactive in defining the future of the valuation profession in Canada or wait for others to do it, possibly without the opportunity for input.

The Alberta Context

The Alberta Association of the Appraisal Institute of Canada first considered provincial licensing in the late 1980s and early 1990s. Pursuit of licensing was deferred until the redistribution of responsibilities and costs between the provincial and national offices

was established.

Elsewhere in Canada, New Brunswick and Nova Scotia elected in the early 1990s to pursue stand alone legislation. New Brunswick succeeded in becoming the first jurisdiction to provide licensed appraisal services under Chapter 105 in 1995. Nova Scotia then implemented the Real Estate Appraisers Act in 1998.

Alberta had three possible paths.

1. Secure licensing through stand alone legislation similar to that in place in New Brunswick and Nova Scotia.
2. Secure registration (without licensing) through inclusion under the Professional and Occupational Associations Registrations Act ("POARA");
3. Secure licensing through a collaborative effort with the Real Estate Council of Alberta ("RECA").

Option 1. - Stand Alone Legislation

While this option provided an element of control over our own destiny, it was not practical for the Alberta Association of the AIC. The number of members in our organization was relatively small and the perceived preference of the current provincial government for professional organizations to register either under POARA or under other existing legislation. For these reasons, we concluded licensing under our own Act was not feasible.

Option 2. - Professional and Occupational Associations Registrations Act ("POARA")

Registration under POARA was an option available to appraisers. Several professional organizations had registered under POARA including the Alberta Assessors Association and the Community Planners. However, while Assessment and Appraisal are related disciplines, the services provided by Assessors differ from those provided by Appraisers. Assessors are employees of, or contractors to, municipalities or the Province. A legislated review process exists to ensure that property owners are treated fairly and equitably. In addition, legislation requires that at least one of the assessors employed by the jurisdiction be designated by the Alberta Assessors Association, the Appraisal Institute of Canada or the International Association of Assessing Officers.

This said, the prospect of even greater problems existed. Registration under POARA would not ensure that the public was protected from unqualified and uninsured persons

purporting to be qualified appraisers. If the Alberta Association of the Appraisal Institute of Canada became registered under POARA, non AIC members wanting to provide appraisal services would not be required to register. As a consequence, registration under POARA would not provide the consumer with the protection we sought. Persons with no recognized training or education in appraisal and without any professional liability insurance, could still practice offering no protection to the consumer. The consumer could not reasonably be expected to make the distinction between a qualified appraiser “registered” under POARA and any other person providing valuation services.

Option 3. - Exploration of Licensing through the Real Estate Council of Alberta (“RECA”).

The Real Estate Council of Alberta (RECA) is an independent, non-government, self regulating agency responsible for the regulation of the real estate industry under the Real Estate Act. The Act defines several sectors regulated by RECA. These are residential and commercial real estate, property management, business brokerage and mortgage brokerage. RECA is mandated to protect consumers, and to provide services that enhance and improve the industry and the business of industry members. RECA appeared to be an excellent fit for AIC. Moreover, approximately fifteen percent of the AIC members were already familiar with or licensed in some other capacity with RECA.

Licensing in collaboration with RECA under an existing ACT was viewed by the Alberta Association of the Appraisal Institute of Canada as the most viable option because we shared a common mandate.

RECA states this as:

the “model supports the development of a professional real estate industry by establishing appropriate educational requirements, setting standards of conduct for industry members, and protecting consumers through an effective complaint handling and investigation process.”

The Appraisal Institute of Canada’s Mission Statement is:

“to represent, support and advance our members as the professionals of choice in the counseling, analysis and appraisal of real property, and protect the public interest by developing and maintaining high standards of professional practice.”

Consistent with the concept advanced by RECA that only licensed individuals be permitted to provide real estate sales and related services to the public in Alberta, we believed that only those persons with the appropriate education, skills and experience,

should be permitted to offer real estate appraisal and consulting services in the province. It was with this background that we initiated steps to design an appropriate system to ensure that an acceptable minimum standard of real estate appraisal practice was ensured.

The United States Experience

Looking to our neighbours to the south, our research suggested that most States license providers of appraisal services. There appeared to be a broad spectrum of qualification criteria. Typically, if you met the criteria and pass the (often multiple-choice) exams, you then qualified to appraise various categories of real estate. Curiously, practitioners are not required to be members of one of the appraisal or valuation professional organizations. However, all licensed appraisers, in the course of conducting appraisal activities and delivering appraisal services, are required to adhere to the Appraisal Institute's - Uniform Standards of Professional Appraisal Practice ("USPAP").

The following feedback was obtained from practicing and institutional appraisers in the late 1990s, some of whom were members of the Appraisal Institute in the United States.

The bad news reads:

The bar is set too low. It is easy to "get licensed". Exams are easy and minimal study time is required. Licensing has made appraisers a commodity and diluted the Appraisal Institute's designations ... a licensed MAI (an accredited appraiser of the Appraisal Institute) is more equal to a licensed candidate in the eyes of the client.

The good news reads:

It forces all appraisers to meet USPAP. It provides a vehicle to eliminate bad appraisers. It sets a higher standard than before. Work quality improved. It has been good for the consumer.

The Canadian Experience

In January 2001, the Appraisal Institute of Canada introduced the Canadian Uniform Standards of Professional Appraisal Practice (The Standards or CUSPAP). While the AIC's Standards are similar to USPAP, they are specifically Canadian in form and content.

Two Canadian Provinces, New Brunswick (1995) and Nova Scotia (1998), have

licensed appraisers through stand-alone legislation. Licensing requirements include the following:

Appraisers must:

- Pass examinations or provide proof of qualification to the Committee of Examiners;
- Carry liability insurance;
- Agree to recertify; and
- Adhere to the Standards

We understand that in the early stages of licensing in Nova Scotia, some initial discussions occurred between provincial associations of the AIC and regulators of real estate in that province regarding the possibility of the appraisers becoming licensed in collaboration with the realtors. The conclusion of senior regulators at that time was that appraisers could not be licensed in this manner. Minutes of meetings held do not provide a definitive statement as to the reasons for this conclusion.

Alberta's Preference

The Provincial Council of the Alberta Association of the Appraisal Institute of Canada, after reviewing the options, recommended that licensing in collaboration with RECA was the correct choice. Joining with RECA would ensure that all real estate related professions within Alberta were licensed under one Act. The Association could add AIC expertise to RECA's education and training programs and each would gain from the other's knowledge.

Together, we believed the Alberta AIC and RECA would better serve Alberta consumers. The AIC programs aim to protect consumers by improving the quality of appraisal work. Through RECA, it was felt the Association could better communicate consumer awareness initiatives on appraisal-related issues, adding appraisal-related topics to existing initiatives such as tip sheets on mortgage fraud, concerns regarding reverse mortgages, zero down-payment schemes and other real property issues. One additional benefit would be that by working together, it would be possible to quickly alert all RECA members to potential problems such as real estate "scams" or mortgage frauds.

Endorsement by AB Assoc AIC Members

The members of the Alberta Association AIC endorsed their provincial council's recommendation on a number of occasions, and approved the Association's application to RECA that real estate appraisers be included in the Real Estate Act.

The Licensing Committee of the Alberta Association of the Appraisal Institute of Canada received the unanimous endorsement of members at the 1999 and 2000 Annual General Meetings to explore and pursue, if possible, licensing in a mutually satisfactory form between RECA and the Alberta Association.

Moreover, the Appraisal Institute of Canada, at its February 2001 sessions, acknowledged the Alberta Association's efforts in this regard and unanimously endorsed the Alberta Association entering into exploratory discussions with RECA.

The First Steps

In March 2001, the RECA Ad Hoc Committee on Licensing received the initial *Proposal to the Real Estate Council* from the Licensing Committee of the Alberta Association of the Appraisal Institute of Canada (the "Appraisal Institute"). The proposal was for the appraisers to become licensed and regulated within the framework of the *Real Estate Act* and administration of RECA. The proposal addressed several issues including membership in RECA, licensing, grandfathering, Canadian Uniform Standards of Professional Appraisal Practice, recertification, peer assistance program, liability insurance, consumer complaints, investigations, compliance, public relations and quality of appraisal services.

Upon receipt of the proposal from the Appraisal Institute, the RECA Ad Hoc Committee met on several occasions with the Association representatives to obtain more information on the appraisal industry and the background process that led to the submission of the proposal. The Ad Hoc Committee met with representatives of the Appraisal Institute and officials of Alberta Government Services in Edmonton on September 21, 2001 to discuss the government's perspective on the proposal. A key question was whether the government supported the proposal by the Appraisal Institute.

Although the government officials were not in a position to make a commitment at that time, a process for further consultation within the appraisal industry and with RECA was encouraged.

By fall of 2002, the situation had changed. The Alberta government not only supported licensing, it wanted it in place as quickly as possible. Amendments to the Real Estate Act were prepared, and scheduled to go before the provincial legislature in spring of 2003. The legislation was passed, with an implementation date of October 1 2004. RECA set up an Advisory Committee to set the admissions and enforcement standards for licensing of appraisers. Two members of the AB Association AIC, Sheila Young AACI and Andy Chopko AACI, represented the Alberta Association of the AIC on the committee. Representatives of the Alberta Assessors Association ("AAA") and Canadian National Association of Real Estate Appraisers ("CNAREA") held equal positions in the committee, and meetings to work out the details of

licensing (who would be exempt, education and standards, entrance exams, etc.) continued through spring and early fall of 2004, when the legislation came into effect.

Licensing in Alberta Oct 1, 2004

As of October 1, 2004 all real estate appraisers working on a fee for service basis in Alberta require a license, which is issued through RECA, the Real Estate Council of Alberta.

Applicants for a license must be or become a member of one of the three founding organizations: the Appraisal Institute of Canada, the Alberta Assessors Association or Canadian National Association of Real Estate Appraisers. An exam has been created for anyone who is not a member of any appraisal organization, but to date this has not been used.

Two categories of license exist: candidate, and designated appraiser. A candidate appraiser must have a signed contract with a designated appraiser, and must clearly identify him or herself as a candidate appraiser on any work done for the public. Candidates are allowed up to 5 years to earn a designation. Institutional appraisers may also apply for a license as either candidate or designated appraiser – there is no separate category for non-practicing.

All appraisers providing services to the public must carry liability insurance of at least 1 million dollars. Institutional appraisers who are not dealing with the public are not required to carry the insurance.

Licensed appraisers may follow either the CUSPAP Standards (members of the AIC) or the USPAP (CNAREA or AAA members), and must clearly state in the appraisal which standard was followed. The International Valuation Standard is also acceptable.

No minimum educational requirement for an appraiser was set – at the present time, the requirement is simply membership in one of the three previously identified appraisal organizations. Minimum educational requirements may be set in the future.

The RECA council is the governing body. One fee for service appraiser sits on the council, for a 3 year term, and must be appointed jointly by all three appraisal organizations. For the first term, Andy Chopko AACI represents all the Alberta real estate appraisers on the council.

The Advisory Committee for real estate appraisers, which did so much work in preparing the rules for the legislation, continues to advise the RECA council and act as liaison between the RECA council and the appraisal organizations. The committee now consists of 1 representative and 1 alternate from each of the three appraisal

professional associations, plus one other member to be appointed, and is chaired by Andy Chopko AACI as the RECA council representative.

On Friday October 1, 2004 the following press release was given out by the Real Estate Council of Alberta to notify Alberta residents of the new legislation:

**For Immediate Release
Friday, October 1, 2004**

Real Estate Council of Alberta Welcomes Real Estate Appraisers

Calgary, Alberta – Amendments to the Real Estate Act that will be proclaimed on October 1, 2004 will add real estate appraisers to the licensing and regulatory responsibilities of the Real Estate Council of Alberta (RECA).

Andy Chopko has been appointed to represent real estate appraisers on the Real Estate Council of Alberta by the Alberta Association of the Appraisal Institute of Canada, the Canadian National Association of Real Estate Appraisers, and the Alberta Assessors Association. "Licensing of real estate appraisers is highly sensitive to customer needs while maintaining a set of standards that exemplifies our profession," Chopko says. "To be included as industry members solidifies an integral part of real estate related activities that appeals to consumers and financial/investor markets. It has been a great opportunity to work with so many professionals throughout the entire licensing process, and our sincere gratitude is extended to all members that have contributed in our related associations and the Real Estate Council of Alberta."

Chair Ted Zaharko says, "The Real Estate Council of Alberta is pleased to welcome real estate appraisers as industry members. These amendments to the Real Estate Act are the result of a significant amount of work and commitment on the part of the Government of Alberta, Honourable David Coumts, Minister of Government Services, and the real estate appraisal community. Lots of effort has gone into preparing for the transition on October 1, and we are looking forward to working with real estate appraisers."

Rules specific to the real estate appraiser sector will be incorporated into the Real Estate Act and will include licensing requirements and regulatory standards.

The Real Estate Council of Alberta (RECA) is an independent, non-governmental agency responsible for the regulation of the real estate industry, which includes real estate brokers, business brokers, property managers, and mortgage brokers. RECA is mandated to protect consumers and to provide services that enhance and improve the industry and the business of industry members.