

# Ontario Humber Real Estate - Course 1 Notes

COURSE 1

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## Module 1 - Lesson 1:

REBBA (Real Estate and Business Brokers Act) provides framework for the responsive regulation of real estate to protect consumers and uphold integrity of transactions ; responsible by Ontario ministry of government and consumer services

Registrant – Any individual or brokerage registered to trade in real estate

Code of Ethics – Regulation under REBBA; acceptable conduct, eliminates ambiguity, protects buyers/sellers

- Fairness and Honesty;
- Conscientious and Competent Service
- Services from Others; advises seller/buyer to get outside info if unable to provide

RECO (Real Estate Council of Ontario); administers REBBA on behalf of provincial government

- Helps build and sustain public trust
- RECO's mission; support fair, safe, informed real estate market for consumer in Ontario

While Ministry of Government and Consumers services is responsible for REBBA, RECO must interpret, enforce and suggest modifications to the legislation.

RECO's roles:

- Enforce registration, education, insurance standards
- Addressing complaints, concerns of a brokerage, broker/salesperson + taking action
- Consumer protection

Trading: Any activity that furthers purchase, sale, exchange, option, lease, rental of property

Registrant: 3 categories

- Brokerage
  - o Although a registrant on its own, must designate broker as broker of record
  - o Corporation, partnership, sole proprietorship that trades for profit
  - o Brokers/salespersons are all employees of the brokerage
- Broker: Registered as broker, employed by a brokerage to trade
- Salesperson: registered as salesperson, employed by brokerage to trade
- Broker of Record: role, handle day-to-day, responsible for everything, provides support to employees

Any agreement with seller/buyer made with brokerage not the agent

A salesperson signs on behalf of the brokerage

The brokerage is the agent, you are a salesperson

## Lesson 2:

Become salesperson:

- 1) Complete education requirements
  - 2) Register with RECO once employed by brokerage (12 months to register with brokerage and apply for registration with RECO)
  - 3) Purchase insurance through RECO insurance program (due mid-august; policy period begins September ; Protects registrants from all sorts of mishaps)
  - 4) Complete post-registration education within initial 2-year registration cycle (24 months); must complete it to renew registration n become permanent salesperson
- Registration with RECO renewed every 2 years

Pre-registration learning path:

- 5 courses, in-person simulation sessions, facilitated review sessions
  - o Exam 1: Real Estate Essentials (Fundamentals, role of salesperson in relation to REBBA n Code of Ethics)
  - o Exam 2: Residential Real Estate Transactions – Theory + Sim. exam
  - o Exam 3: Additional Residential Real Estate Transactions (Expands in other types like condos, rural properties, etc.) Theory +Sim. exam
  - o Exam 4: Commercial Real Estate Transactions (office, retail, business, etc.)
  - o Getting Started

## Lesson 3:

Skills used to become successful

Everything good you can think of, including planning, goal setting, discipline, confidence, tech-savvy, interpersonal skills, etc.

## Lesson 4:

Types of Real Estate Markets:

Sellers Market: Demand > Supply; More offers and bidding increases prices, properties sell quick, buyers are rushed to make a decision, etc.

- Once listed, activity is quick, must be available to review offers with seller for hours
- As a buyer's salesperson, immediately act on houses that fit your consumers criteria

Buyers market: Supply > Demand; more listings, listing periods extended; fewer buyers=falling prices, buyers take longer to decide,

- Takes long when listing, showings may not happen often

- Buyers salesperson: spend time showing, revisiting

Balanced market: Supply = Demand; middle ground of listing time, negotiation, prices, etc.

- Listing, typical listing period,
- Buyers salesperson; review listings each day, expect appointment to show can be obtained in a day or two without worrying itll be taken

Types of Real Estate and Career Opportunities:

Residential resale: extensive work with sellers/buyers, handling emotional issues, irregular work hours

New home sales: Little involvement with showings, listings; qualifying buyers and closing sale; purchase and sale agreement

Residential condominium: Various condo's and rules, various factors affecting it mostly to do with the condominium corporation like monthly fee charge or the corporations financial stability

Rural, recreational, agricultural sales: wells and septic systems knowledge required; cottages, waterfront locations, unique regulations

Commercial: involves, retail (product selling), office, industrial (warehouse/manufacturing space), investment properties,

Leasing and Commercial Properties: Tenants

Resale properties activites (steps in order) :

Seller:

Representing seller: Agreement to list a property is documented by a seller representation agreement between seller and brokerage

Marketing: Cost borne to you whether it sells or not, clear plan, what materials used, intended market, media, hours, etc.

Prospecting: The property, in terms of location, type and price range, provide you with a profile of a typical buyer; you can then target markets accordingly

Ex. Introducing yourself to neighbours; distributing property specific flyers in area, ensure other salespersons are aware of the listing as they will have ready buyers

Showing: Prepare, repair, know where everything is

Buyer

- Determine buyer's wants and needs along with financial ability, select limited showings to avoid confusion, provide accurate info
- Prepare offer upon request or intuition
- Present offer, **as listing salesperson**, sign offer on different terms maybe
- Monitor transaction after to ensure conditions are fulfilled

### **Lesson 5:**

- For residential transaction, several weeks or months after agreement that brokerage is paid commission earned
- Commercial: Several months or years between listing, offer, transaction completed
- Accepted offer must still fulfill conditions to complete transaction
- Manage finances smart; create budget, realistic earning goals, track expenditures, find advice to claim expenses, separate business and personal expense
- Expenses
  - o Initial: Application review fee, salesperson registration fee, RECO insurance, start-up costs (website, signage, cards, etc.)
  - o Ongoing: Registration renews, annual RECO insurance
  - o Marketing, office and transport related fees

Listing brokerage (working with seller) + Co-operating brokerage (working with buyer)

### **Module 2**

Real Estate is a regulated profession and you must be a salesperson to do any act of trading in real estate; involves, writing a weekly blog about real estate, or providing advice to secure a future listing

Brokerage:

- Listing brokerage, when a brokerage has listed a property for sale
- Cooperating brokerage, working with buyer
- Buyer's brokerage, self-selling, not affiliated with any other brokerage
- Leasing=renting= possession of property rather than ownership
- Landlord=lessor= grants lease
- Lessee=tenant= leases property

A brokerage can represent or provide services:

- Representation: Works with client. Represents sellers or buyers + their best interest.
- Provide services: Works with customer. Provides limited services (mostly when buyer/seller feels they're good without salesperson)

Agreements:

- Representation agreement: Brokerage represents seller or buyer. A relationship can be written or verbal agreement but must be reduced to written before an offer is made signed on behalf of brokerage and client; REBBA requires copy immediately after signing
  - o When working with seller: listing agreement
  - o With buyer: representation agreement
- Customer Service Agreement: When brokerage provides services; non-exclusive, meaning a party can obtain services from another brokerage with no obligation to compensate the one with this agreement signed
- Agreement of purchase and sale: Document used to negotiate terms between seller and buyer; no standard form required; must be legible and a copy given to both buyer and seller
- Commission Agreement: Paid for services provided for sale or lease; can be a percentage of sale amount, a fixed amount or both; the commission is usually set out in the representation agreement but for example, for a customer service agreement, the customer is not obliged to pay unless otherwise agreed in writing

#### Scope of Ownership:

- Real Estate: tangible aspects
- Real Property: Tangible and Intangible aspects that add value; property rights = bundle of rights
- Personal property: Movable; consumer goods; appliances, drapes, etc. ; can be part of negotiation
  - o Fixtures: Type of personal property; usually permanent and included in purchase
  - o Chattels = personal property; but mobile; any chattel to remain should be identified on purchase and sale agreement; default excluded from purchase
- Title: Legal ownership of land + rights
- Title searching: Locating, organizing pertinent facts about documents and other related materials registered on title
- Evidence of ownership: Document used to show transfer of ownership or title or interest in real property; Transfer/Deed of Land
- Completion date/Closing date: Transfer of ownership between buyer and seller is completed; specified on purchase and sale agreement

Mortgage – Claim upon property given by owner to the lender as security for money borrowed; registered on title in Land Registry Office; must be repaid in full when property sold; once repaid a document is registered on title that discharges the mortgage off title

Mortgage is used under the *Registry Act*; when title is registered under the *Land Titles Act* is “charge”

Charge/Mortgage of Land; document used to register the claim against a property

Discharge of Charge/Mortgage; document used to remove the claim against property

Mortgagee; lender under *Registry Act*; Chargee under *Land Titles Act*

Mortgagor; borrower under *Registry Act*; charger under *Land Titles Act*

Borrower gives mortgage, lender gives financing

### **Residential structures:** Detached vs Attached homes

Detached:

- Bungalow: One floor, older neighbourhoods and older couples; ranch style bungalow offers more living space + garage
- Bi-level/split entrance: More effective use of lower basement areas; split level between upper and lower areas, basement is raised above grade, more windows, sunlight, access and ventilation
- One and one-half storey: 60% of living area on first floor, cost-effective than bungalow as more square footage on same building coverage, high pitched roof, dormers (attic)
- Two-storey: Popular, no upper angled ceilings
- Split-level: Side-split, from left to right layout; back-split, front to rear; multiple levels of living

Attached:

Share walls, reduces building cost; more housing on plots of land; aging Ontario population seek smaller quarters

- Semi-detached: One wall attached, side-by-side, located on separately deemed lots;
- Townhouse (row house): three or more units joint by party walls; full basement, main and upper level; developers attracted bc of ability to create more housing on the land as there is no additional yard space when they're attached; can be located on their own or part of condominium complex where unit owner owns structure and shares land as a common element with other unit owners
- Linked dwelling: two or more single-family homes attached, yet placement attached portion of home is not always evident; many are attached below grade by a concrete wall, or above grade using garage walls; closer to property line than others in similar neighbourhoods
- Multi-unit residential dwellings: duplex, triplex, fourplex; more than one dwelling unit in a single building; divided vertically or horizontally into two attached dwelling units on a single lot; separate or shared entrance

## **Commercial**

- Office: free-standing small offices and retail operations to low- and high-rise office complexes; office parks with attractive suites are found in suburban areas on 1 or 2 floor buildings with landscaped areas; targeted to professional tenants
- Retail: All service-based stores, outlets, malls, stand-alone, groupings, medical, food, etc.
- Mixed-use: Many are mixed, where office, retail and/or residential are combined; involves 3 or more significant revenue-producing uses and must each be viewed as stand-alone, like an actual destination not just convenience for residents
- Multi-unit: Technically, any residential structure with more than one dwelling unit; however commercial multi-unit will include larger rental properties attractive to investors rather than owners; low, mid and high rise
- Industrial: 3 types
  - o General purpose; wide range of operations possible
  - o Special purpose; limit potential use, like manufacturing plant or distribution centre
  - o Single purpose; specific use; little or no potential for conversion to other purposes
- Agricultural: Significant in provincial economics; large scale farm operations require special purpose buildings for livestock & crops

## **Mod.2 - Lesson 2**

- REBBA regulates real estate profession in Ontario; RECO administers REBBA on behalf of provincial government
- Provincial government oversees real estate governance in Ontario; responsible for REBBA
- Ministry of Government and Consumer Services responsible for REBBA and general oversight of RECO; ensures legislation remains relevant over years of change

### **RECO:**

- Delegated by provincial government to administer and enforce REBBA; supports fair, safe, informed real estate market for consumers
- Self-managed, not-for-profit corporation; best interest of consumers; professionalism; enforcing and suggesting modification to regulation; work with stakeholders to maximize value of regulation
- Activities that support RECO's mandate of protecting public interest:
  - o Enforce standards to obtain and maintain registration as a registrant
  - o Establish education standards (all education related, pre, post, renew)
  - o Conduct inspections of brokerages to ensure compliance with REBBA
  - o Address inquiries, complaints, take action
  - o Insurance
  - o Source of consumer protection, education and information in real estate



- 12-member Board of Directors; gives direction to CEO and senior management team; board includes 9 elected members and three non-registrant members appoint by ministry of government and consumer services
- Ceo responsible day-to-day management of RECO; registrar carries out powers and duties imposed under REBBA

Organized Real Estate is a voluntary membership consisting of local boards, provincial and territorial, and the Canadian Real Estate Association (CREA). Ontario's provincial association is the Ontario Real Estate Association (OREA)

- CREA; national organization, offices in Ottawa; focuses on national and international representation of the real estate industry; owners of trademarks REALTOR and MLS in Canada, operates Realtor.ca
- OREA; represents brokers and salesperson who are members of the province's real estate boards; many functions:
  - o Maintain strong provincial lobbying voice for REALTORS
  - o Providing downloadable forms and clauses
  - o Offering savings programs
  - o Informing member of industry news
- Local Real estate boards; represent local area or region; salesperson becomes member of CREA & OREA and can call themselves a REALTOR; local services provided to board members, like access to the Multiple Listing Service (MLS) and local market info and data reports

CREA:

- Liaises with national organizations, like Canadian Construction Association, Urban Development Institute
- Founded In 1943, postwar, desire for national voice for all real estate salespersons
- MLS grown since its inception in 1950s; listing info to members
- Realtor.ca; provides consumer access to selected property information, advertising vehicle provided by REALTORS across Canada to help market properties; consumers need to contact a REALTOR for all details about properties listed on site

OREA:

- Provides lobbying voice; like lobbying the provincial government against municipal land transfer tax

Any real estate professional that join an Ontario real estate board automatically becomes a member of CREA & OREA

Real Estate Boards:

- Non-profit corporation for benefit of its members
- Each region has several local boards; members pay dues to be affiliated with the board; TREB largest; do bylaws, abide of code of ethics, can have different membership
- Authorized by CREA to use certain trademarks

Real Estate Institute of Canada (REIC):

- Not-for-profit; organized advance education; like

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- Fellow of the Real Estate Institute (FRI)
- Certified Property Manager (CPM)
- Certified Commercial Leasing Officer (CLO)
- Accredited Residential Manager (ARM)

Certified Commercial Investment Member (CCIM) Institute:

- Education programs and services for professionals; awards CCIM designation to individuals completing graduate level courses based on advanced concepts and techniques in commercial real estate; four core courses

Society of Industrial and Office REALTORS (SIOR):

- Leading international organization of commercial and industrial practitioners
- Maintenance of high standards

### **Lesson 3**

- Brokerage must designate broker of record; broker of record must be a registered broker with RECO and employed by that brokerage

Broker of record must ensure compliance with Acts and regulations for everything, all salespersons

- Actively participate in management; supervision of all working within brokerage; compliance with REBBA; review and approval of trade-related documents; sign any brokerage financial statements as required by the Registrar

A brokerage with multiple locations must register the main brokerage office and register the others as branch offices; branch offices must be under supervision of a broker; branches with more than one salesperson must be directly supervised by branch manager

A branch office with two or more registrants requires management by a broker or salesperson who's been registered for at least two years

Branch manager:

- Provide supervision for those employed in the branch
- Take action for failure to comply with Act or regulations
- Manage all record relating to the branch
- A branch with one broker or salesperson only needs supervision of broker of record at head office

Listing Salesperson:

- Inspect property; compare market analysis to recommend price range; establish list price with seller
- Design marketing strategy
- Recommend changes homes for sale for showing
- Assist seller's lawyer where necessary to prepare for closing
- Provide after-sale assistance as needed, etc.

Buyer's salesperson:

- Determine buyer's home desires, arrange showings, estimate value
- Ensure appropriate financials
- Present agreement of purchase and sale and negotiate agreement with seller or seller's representative
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### Mod 3 – Lesson 1

Types of estates (estate is an interest in land with various rights associated with ownership/tenancy) :

- Fee simple (buying): Owns property; has all rights associated with this ownership
  - o Highest estate or absolute real property; has most rights and fewest limitations, can use, sell, lease, give away, enter, or refrain from any of these rights for an indeterminate amount of time
- Leasehold (leasing): Right to use and occupy property for specific amount of time

Property interests:

- Air rights: Rights to use space above physical surface of land; normally acquired for construction of bridge, piers, elevated streets and sidewalks, or entire buildings  
Ex. Constructing a multi-level building above an existing use, like a railroad, requires air rights
- Surface rights: Any right of land other than mining rights; owns rights to land excluding mineral rights ; can be identified with a title search at a land registry office
- Riparian rights: Rights allocated to owners of waterfront property, associated with access to and use of water
- Mineral rights: Rights to enter or use land for purpose of removing minerals on or beneath it

Types of **Concurrent ownership** (2 or more persons hold ownership to same property simultaneously):

- o Joint Tenancy: upon death of one, surviving tenants acquire whole interest in the property rather than being a part of the deceased person's estates; rights of survivorship
- o Tenants in common: No rights of survivorship; interest of deceased person treated as asset of their estate; does not have to be equal ownership

For Joint tenancy to exist; four conditions or unities must be present:

- Title: Must be same and create at same time in same document for all owner's
- Time: Interests of all joint tenants must be created at same time for same period
- Possession: Each owner must have an equal, undivided ownership of property
- Interest: Each joint tenant must have an undivided share of the property at the same time as the others

Condominium: Form of ownership with a fee simple ownership of the unit and a tenant in common ownership of the portion used jointly with others known as common elements (halls, elevators, etc.)

- A common elements condominium (CEC): consists only of common elements and not units; owners pay a maintenance fee, have ownership interest in their own property and

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undivided interest in the common elements; their property is “tied” to the CEC, referred to as a Parcel of Tied Land (“POTL”)

#### Ownership Alternatives:

- **Co-operative:** A property is owned by a corporation; members have agreement to occupy a specific unit; members may or may not hold shares in the co-operative
  - o Equity co-operative: Corporation owns land and buildings with members as shareholders in the corporation (different from condo’s as here they have shares in corporation, in condo’s ownership is by way of title to a specific unit)
  - o Non-profit co-operative: Without shares; purpose to provide housing for members; no ownership interest, only pay rent to corporation owner
- **Fractional ownership:** Shared ownership; individual partially own a valuable asset without putting up the money to purchase the whole asset outright; allows multiple buyers to get part of property title as tenants in common with usage rights depending on size of fraction purchased
- **Co-ownership:** 2 or more persons own property jointly; tenants in common ownership alternative, which deed outlines proportionate interest in property held by each owner
- **Land lease:** Leasing of land only; rights to use the land for limited time; opportunity for consumers to own a home without added cost of land (if they lease their land to someone)
- **Life lease:** Person does not own property but an interest in the property in exchange for a lump sum payment up-front; has to pay monthly maintenance fees; right to occupy or live in a unit rather than owning it; lasts till end of lease holder’s life or until lease holder decides to move

#### Additional property types and ownership alternatives:

- **Timeshare:** division of property rights into fractional interests based on time
  - o Fee ownership interest: Buyer purchases an actual deed interest in property for a specific period of time each year; ownership does not end after a specific period of time and usage rights can be sold, gifted, include in a will
  - o Right to use interest: buyer purchases right to use unit but does not have ownership in property; buyer does not get title deed; only right to use for specific time period then revert back to the owner

#### Timeshare requirements:

- Timeshare agreement in writing
- A consumer may cancel (cooling off period) without reason, from date of entering agreement until 10 days after receiving written copy of agreement
- Can cancel within one year after date of entering agreement if does not receive copy of agreement or does not receive one that meets requirements

#### Mobile Home parks: Designed to be mobile, and a permanent residence

- A mobile home park is land on which one or more mobile homes are located and includes rental units and facilities which landlord retains and for common use
- Covered by provisions the Residential Tenancies Act, 2006
- Agreement of purchase and sale, limited to dwelling and not the land; must identify dwelling specifics, manufacturer , model, site location if in mobile home park

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- Whether moving home or not, agreement should include relevant sit lease document with landlord  
Residential Tenancy Agreement (Standard Form of Lease)

#### Houseboats:

- Residential: vessels are perpetually harboured and thus static
- Recreational: vessels have residential furnishings and engines to propel them on water
- Must have right of dockage, access to utility hook ups and access rights to the marina or docking facility
- Similar to land lease

#### Mod 3 – Lesson 2

Easement: Right enjoyed by one landowner over the land of another, granted for a special purpose rather than general use and occupation of the land; does not grant ownership to any part of land, only a right to use for that special purpose; an interest that runs with the land; binds subsequent owners and not eliminated just because property is sold

Six defining characteristics of easements:

- Specific use
- Dominant and servient tenements; easements must be comprised of both
  - o Dominant tenement: Estate or interest in land that derives benefit from an easement over a servient tenement, as in a right-of-way
  - o Servient tenement: Land over which an easement exists in favor of a dominant tenement
- Two different parties; dominant and servient tenement properties cannot be owned by the same person
- Easements must solely benefit the dominant tenement
- Easements run with the land; once granted, easements bind subsequent owners
- Dominant and servient tenement do not have to be adjoining



To get access to lake (3<sup>rd</sup> box) the first box has right of way over the 2<sup>nd</sup>. So first box would be dominant tenement and second would be servient tenement; second box cannot construct anything on that PORTION of the property because of this easement giving the first box owner right-of-way

Easement Creation:

- Express Grant: whenever owner decides to grant a privilege in favour of another owner
- Prescription: Ex. a neighbouring owner has been openly using a narrow strip of land in the back of another property to access the back of their own property with their vehicle. The access has been

continuous, exclusive, and open for many years without the consent of the owner but with the owner's knowledge

- Implication: Created to avoid detrimental effects or inconvenience to an adjoining property owner
- Statute: Minister may grant easement in or over public lands for any purpose; do not require a dominant tenement as the property owners; ex. utility company holds an easement in gross to access pipes and lines on a property

Easement Termination:

- Merge: easement is extinguished if the ownership of both dominant and servient tenements merge  
Ex. purchasing your neighbours property
- Release: Dominant tenement can release the servient tenement by removing the easement from the title;
- Ceasing of purpose: If purpose of easement disappears, so does the easement

Types of easements:

- Right-of-way: Allows another person to travel or pass through another person's land; for purpose of maintaining the easement and making repairs; maintenance and repairs involving public utilities often referred to as statutory easements
- Party wall: When registered owners of adjoining parcels of land enter into party wall agreement; any changes would have to be mutually agreed
- Mutual shared driveway: Strip of land shared by adjoining neighbors used as a joint driveway for both parties;

Private restrictions:

- **Restrictive covenant:** contractual arrangement restricts what owner can do with their property; written into deed of a property and registered on title; transferable (run with land even to subsequent owners); must be negative and reasonable in nature  
Ex. Parking restrictions, barred from placing signs, fence height and locations restrictions, etc.
- **Encroachment:** When property owner violates property rights of their neighbor by building structure wholly or partially on the neighboring property; usually unintentional; neighbors can sign an **encroachment agreement** which allows encroachment to continue for a determined time  
ex. sheds, driveways, garages, walls, fences, etc.
- **Adverse possession/ squatters' rights:** When an individual who is not the owner, takes possession of the property, without owner's consent; claimant's possession must be visible, exclusive, and continuous for 10 years without consent of owner but with his knowledge  
Ex. neighbor installs encroaching fence, stays there for 10 years, owner says he's encroaching, but too late because of adverse possession
- **Profit-à-prendre :** Interest in land that gives a person right to enter another's property, based on a written , and take something from it like crops, minerals, fish, or timber

Government limitations on property ownership:

- **Expropriation:** involves acquisition of private property by government for the public's best interest and use with fair compensation to the owner; government exercises right of eminent domain; process in place to a landowner to object the expropriation and compensation being offered

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- **Right to regulate (police power)** : Right of government to regulate property for promotion of public safety, health, morals and general welfare; zoning bylaws, building codes, traffic are based on this
- **Right to levy taxes**: Right of government to levy taxes on property  
Ex. real property tax, land transfer tax
- **Escheat**: Reversion of property to government or government agency if property owner dies, leaving no will and having no legally qualified heir to whom property may pass

#### **Mod 4 – Lesson 1**

Origins of Land Measurement:

- England, 1620, Edmund Gunter designed Gunter's Chain
- Ontario was initially surveyed using the chain and link method
- Plots of land were known as concessions and further divided into lots
- 1 link = .66 feet
- 1 chain = 66 feet = 100 links
- 80 chains = 1 mile
- 1 concession = 100 chains = 1 ¼ mile

1792, Governor Simcoe, divided Ontario into counties following a river or lake or straight line through the bush; then divided into smaller parcels referred to as "townships"

Townships were square but topography made it a rectangle or irregular line because of natural boundaries

Townships were divided into strips of land; Concessions, numbered in Roman numerals beginning with I

Each concession was separated from the next one by a "road allowance" Road allowance was not always road but remained public property

Each concession further divided into lots running at right angle to concessions and numbered in Arabic numerals from 1

Lots sometimes divided by a road allowance (usually every 5<sup>th</sup> lot) or by a lot line;

A "parcel of land" could then be described as the entirety of the lot and concession

Ex. Lot 5 in Concession III, in the Township of Anytownship, in the County of Anycounty

There WERE three types of townships:

- Single front township: Oldest; Found on banks of navigable lakes and rivers; 20 chains by 100 chains and contained 200 acres; standard road allowance was one chain wide (66 feet)
- Double front township: Lots to be 30 chains (1980 feet) by 66.67 chains (4400 feet); patented or given legal identity, in half-lots containing 100 acres
- Sectional system township: 1000 acre sections; lots were 20 chains by 50 chains with 100 acres

Initially, 200-acre farm was identified by lot and concession; as population grew, smaller divisions of land were necessary but were based on dimensions without concern for precise directions and often did not reflect the written land; hence metes and bounds descriptions were made

Metes and bounds :

Older system of written land made when irregular land parcels were carved out of concession lots;

- Start/end at a commencement point of reference, boundary lines referenced according to compass directions (bearings) and distances between these boundary lines; goes around property  
Ex. north 20 degrees west for a distance of 300 feet; these descriptions fully enclose the property; all references must relate to the northerly bearing

Survey = Determination of boundaries of a piece of land; can identify land, locations of structures, distances to lot lines, encroachments, easements, or right-of-way

- *Surveys Act* references ;and surveying as “cadastral surveying”; a technical term for the comprehensive recording of land and property bounds
- Four components:
  - o Research: relevant data obtained by surveyor in preparing to visit the site and carry out their function (could be legal description, registered easements, encroachments, restrictive covenants)
  - o Measurement
  - o Monumentation: location of physical markers (posts) at property corners, and at intervals around boundary; could be existing or installed by surveyor
  - o Plan/report

Four types of surveys:

- Surveyor’s Real Property Report (building location survey) :
  - o Part 1: Plan of Survey
  - o Part 2: The Written Report
  - o Full survey of property; full monumentation not required, only front angles of property
  - o Show everything that might affect title or enjoyment of property by owner
  - o Must have:
    - Municipal address and info regarding land titles or registry office designations
    - Dimensions and bearings of all property boundaries, determined by field survey
    - Designation of adjacent properties, roads, lands, etc
    - Location and description of notable improvements, including setbacks or minimum distance requirements to boundaries and projection of overhangs, eaves and fences, driveways, walkways, swimming pools, etc.
    - Location of easements or right-of-way affecting property
    - Location and dimensions of visible encroachments onto or off property
    - Location of survey monuments found and placed
    - Note indicating for whom plan is prepared
    - Certification by an Ontario land surveyor
    - Written report



- Reference Plan (R-plan):  
Describes more than one interest in land (each interest identified as a part), which is deposited (officially submitted) in a land registry office; buildings may or may not be shown on reference plans (all changes to land require a reference plan to be deposited in land registration office)  
R-plans are required for:
  - o Severance of an existing parcel of land; as a formal consent
  - o First application (first registration) under the *Land Titles Act*
  - o When land registrar determines title is too vague or complex, R-plan requested for clarity
- Plan of Survey: Visual depiction of property without written report or required certification needed for Surveyor's Real Property Report; thus cannot be registered at land registration office; useful for homeowner establishing property bounds or securing building permit
- Plan of subdivision: Detailed survey indicating lots and blocks of lands and roads; for future neighborhoods development illustrating future individual parcels;
  - o Each parcel within a plan of subdivision can be bought and sold independently of others within the same plan
  - o Plans are assigned numbers at time of registration at the land registry office
  - o A registered plan of subdivision creates a new geographic identity for the land

Ex. Property previously described as Part of Lot 2, Concession III, Township of Anytownship, County of Anycounty. Upon registration as a subdivision, legal identity would change to:

Lot Plan 99M-165, County of Anycounty

*The Acts:*

- Surveyors are subject to the *Surveys Act* and *The Surveyors Act*
- *Surveys Act*: Sets out requirements for establishment/re-establishment of survey items, lines, boundaries, corners;
- The association of Ontario Land Surveyors operates under the provision of the *Surveyors Act*; code of ethic and standards of practice

Legal Land Descriptions:

Legal land description confirmed with source documents like deed or survey; if not in seller's possession, secondary documents like registry and municipal assessment records or municipal tax bills can be used

Legal land description: Unique identifier for each parcel of land. It is a written description w/ three parts:

- Locational Reference: Various descriptors like lot number, part lot number, plan number, plan of subdivision number, or reference to section and parcel number
  - Encumbrances: Restrictions registered on the property like easement, would be included in legal description
  - Municipality/Registry Office
- Ex. Locational Reference: Lot 27, Plan 58M-1234; Encumbrance: S/T LT 123456; Municipality: City of Anycity

Abbreviations:

LT – Lot

S/T – Subject to

PL – Plan

PT – Part

T/W – Together with

PCL – Parcel

## Mod 4 – Lesson 2

*Registry Act* : Administrative official only, takes no responsibility for verifying title

- Records property interests on a geographic basis; all lands within counties is registered at registry offices
- Basic recording books – “abstract books” ; abstract books in the registry office are divided on a township basis; each book covers particular farm lots within each concession and within each township
- Subdivision plans were developed, legal description changed from a lot and concession reference to a plan number; each parcel of land within the plan was assigned a number; new abstract books accommodate these plans; with time too many books, too complex
- To search for particular lot, access plan (abstract) book and look up appropriate lot number
- Crown patent: Root of title

*Land Titles Act*: Maintains and guarantees title

- Acts as if the Land Titles Registrar ( a book like the Abstract Book in the registry) is the sole information source for purchasers
- **Land titles** based on:
  - o Mirror principle: Register of title is a mirror that accurately and completely reflects the current facts that are material to a person’s title
  - o Curtain principle: The register is the sole source of information for proposed buyers, who must not concern themselves with trusts and equities that lie behind this curtain of information
  - o Insurance principle: Mirror principle is deemed to give absolute correct reflection of title, if human error exists, that person is put in the same position as if it were true
- Only existing and valid interests remain on registrar, rest are deleted
- All land registered by a plan of subdivision and all land on which condominiums are developed under the Condominium Act must be registered under this act
- Land registered under *Registry Act* may be brought under Land titles by the owner through a process called “first application”; called administrative conversion (registry records to land titles)
- All land title entries are by way of assigned parcel numbers; separate parcel record kept in register of title for each unit of ownership
- **Land titles** system features:
  - o Method of government registration of title to land in which the government guarantees the title and operates the registration process; certain limitations

- All transactions must be registered against the title in the provincially operated land titles office and are not valid in the form of mere instruments executed by parties as against other competing registered interests
- Certificate of title complete and accurate reflection of preceding transactions affecting property
- Assurance fund provided for compensation to those who suffer loss due to errors or omissions of the registrar
- No title to land registered under the act can be acquired by any length of possession or prescription (adverse possession)
- Each parcel of land is recorded in the register at the land titles office as a unit of property; the land is surveyed
- Land titles office officially referred to as the Land Registry Office for the Land titles Division of the Regional Municipality or county of name; each division overseen by a land registrar

Land is registered under either but never both.

Land Titles Assurance Fund:

- Persons deprived of ownership through errors or fraud are entitled to compensation, provided it cannot be obtained from other sources
- Apply for compensation to the Director of Titles; amount will be determined by him, not confused with title insurance (Insurance for owners and lenders)

E-Registration:

- Refers to title documents being created, submitted and maintained in electronic form
- Those with access to the Teraview/POLARIS system may register docs electronically from their offices or use a kiosk or request service in the applicable land registry office
- Not all docs can be registered electronically; ex. Crown grants, declaration/description for registration of a condominium, complex doc w/ too much things(must be registered using paper-based methods)
- Initiated by means of docketing and messaging
  - Includes registration documents prepared by one lawyer with subsequent forwarding (messaging) by secure transmission to another user through the Teraaview gateway software

E- Registration Process:

- 1) A seller's lawyer creates a Transfer/Deed of Land and sends a message to the buyer's lawyer allowing access to the document
- 2) The buyer's lawyer adds buyer info and performs other steps in document preparation process
- 3) Once completed by both lawyers, ready for e-signatures (two are required; completeness and release; completeness signature validates the accuracy of statements made and release signature confirms the document is ready for registration)

- **POLARIS (Province of Ontario Land Registration and Information System)** (mapping and property detail database of the Ontario government):
  - Automated land registration system operates based on title index (description of property ownership) and property mapping (surveys and plans) databases
  - Registers properties under a parcel basis like a land titles system; the guarantee of title normally associated with land titles is not here
  - By centralizing data electronically, search times are reduced, manual abstracting eliminated, access provided remotely
  - Permits user to find property by “individual parcel” with address, owner’s name or PIN within title index; if first 2 unknown, PIN can be quickly location through block and property index maps:
    - Block index map:
      - Large tracts of land within individual communities are organized in terms of blocks; user can use block index maps to find general location of property
    - Property Index map:
      - User then views property index map for the appropriate property; each map is a detailed expansion of individual blocks from block index map
    - PIN: PIN assigned when properties are converted to land titles and automated under POLARIS system;  
Ex. Block #: 00114; Property #: 0051; PIN: 00114-0051 (Combination of both)
  - Its implementation:
    - Costly, time consuming
  - **Teraview** and **GeoWarehouse** allow a salesperson or a client, like a lawyer, search parcel records within POLARIS by entering one of the following:
    - Unique 9-digit PIN
    - Municipal address
    - Name
    - Registered instrument number
    - Map
    - Condominium plan
    - Plan of subdivision
  - **Teraview** facilitates searches by accessing 3 different databases within POLARIS:
    - Title index database:
      - Replaces abstract indexes and parcel registers found in traditional paper-based land registry office; database is automatically updated as new documents are registered
    - Property index database:
      - Visual indexing maps to locate properties; updated with registration
    - Image database:
      - Plans/images of all active instruments in title index database; updated with registration; images from paper transferred online
- **Teranet** (responsible for implementation, operation, and enhancement of POLARIS):

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- In partnership with service Ontario, built “OnLand”; web portal to deliver key statutory services relating to land and property ownership; search from anywhere by anyone
- Records are also being converted to land titles, referred as the Land Titles Conversion Project
- Transferring registry records into land titles and automating these records allows e-registration
- Parcelization process: Parcelizing refers to the organization of property by land ownership as opposed to geographic location in the registry
- Every property in Ontario is being identified geographically and assigned a parcel number, this number become central reference for a host of property details;

#### **Land Titles Conversion Project:**

- Conversion of registry documents to land titles coincident with a change to the automated POLARIS system
- **Teraview** (a software package providing an electronic gateway to automated property records in Ontario including **POLARIS** land registration system):
- A search process developed that accounts for all claims outstanding during the 40-year search period and establish owner; at least 10 years of ownership or the last three deeds are searched, whichever is greater, to establish ownership
- Interests and claims recorded on the parcel index for the 40-year search period are carried forward to the automated parcel register; assumes errors already detected; if any occurs, compensated through *Land Titles Assurance Fund*
- Search process does not involve applications by individual owners supported by current surveys; individual notification is not given and no hearings are held to resolve disputes concerning the extent of title; thus boundaries of land not included in application, not fixed, just like the first registration
- Title qualifications + those set out in *Land Titles Act*, are modified and legal advice should be sought

#### **Land Titles Converted Qualified Versus Land Titles Absolute:**

- About 35% of the land in registry system was converted into land titles system using the **Land Titles Absolute (LTA) system**
  - **LTA** is issued for parcels that are brought into land titles by way of first application; titles subject to title qualifiers set out in *Land Titles Act*
- The remaining 65% of land was brought into land titles system through the **Land Titles Conversion Qualified (LTCQ) system;**
  - involves parcels that are brought into land titles during the administrative conversion from registry records to a land titles parcel
- In the **land titles conversion project**, first application process was replaced with a large scale administrative conversion; pre-established search procedure verifies existing titles within the registry
- Certification of title issued upon investigation and recommendation of representatives of Ministry of Government and Consumer Services; properties so converted bear initials **LTCQ** indicating land titles conversion qualified; title to property insured with claims settled under *Land Titles Assurance Fund*

- **Land Titles Conversion Project;** large undertaking, lots of risk; ministry of government and consumer services determined that the title for all properties issued under land titles conversion would be given qualifications that differ slightly from normal land titles qualifications  
Ex. titles brought into land titles by conversion are subject to the rights of any person who would, but for the land title, be entitled to the land or parts through adverse possession, prescription, misdescription, or boundaries settled by convention
- Owners wishing to develop property by registering a plan of subdivision or condominium on an LTCQ parcel must apply the title to a Land Titles Absolute Plus (means property is free of any encumbrances and title cannot be disputed by anyone); resolution of any problems regarding boundaries and adverse claims is required before such plans are registered in the automated system; if an unresolvable problem is found during search process, property will not be converted to land titles; it will be automated and maintained in the registry system; may be converted later without a formal first application, as soon as missing title evidence supplied
- If major problem, conversion will not proceed, parcel will be entered in automated system as a registry parcel pending any possible further investigation

Forms used for Land Registration:

The *Land Registration Reform Act* sets out five standard documents that can be e-registered.

- Form 1: Transfer/Deed of Land:
  - o To register a deed under registry or the land titles system; conveys title or interest in property with full names of both sellers (transferors) and buyers (transferees) w/ b-days & any other person with an interest in the estate
  - o Registered along with the Land Transfer Tax Affidavit (must accompany every document being registered in Ontario land registry offices that transfer an interest in land); affidavit required by the *Land Transfer Tax Act* and Land Registrar is required to collect land transfer tax once this document is presented
  - o Buyers may elect to pay land transfer tax directly to the Ministry of Finance, where details would not appear on the affidavit
- Form 2: Charge/Mortgage of Land:
  - o To register a mortgage under registry or the land titles system; provides info on mortgage financing on property being listed or sold
- Form 3: Discharge of Charge/Mortgage of Land:
  - o Used when discharging a mortgage under registry or land titles systems; executed by mortgagee and given to mortgagor verifying that a mortgage loan has been repaid in full before, at, after the maturity date
  - o Document registered at land registration office as a permanent record of the discharge
  - o Must pay off debt and have discharge registered as evidence of removal of mortgage claim, fee is charged; sometimes, mortgagor will pay off debt and fail to obtain a discharge
- Form 4: Document General:
  - o A blank form meeting prescribed standards used to register any documents that are not a transfer, charge, or discharge; used ex. for notices of liens on a property or a registration of a power of attorney
- Form 5: Schedule:

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- Used as an attachment with other paper based or e-forms; schedule can accompany any of the other 4 forms

## **Mod 5 (REBBA) – Lesson 1**

### History of REBBA:

- Earlier, there were no Code of Ethics and only CREA members were governed by the CREA code of ethics; in 97' RECO introduced its own code of ethics that applies to all registrants
- REBBA consists of the statute (“the Act”) and five Regulations, three of which have direct impact on registrants; RECO administers the Act on behalf of the Ontario government
- Three direct impacting regulations:
  - Ontario Regulation (O. Reg.) 567/05: General (includes regulations on registration, trust money, brokerage structure, and management)
  - Ontario Regulation 579/05: Other (includes regulations on educational requirements, insurance, and records)
  - Ontario Regulation 580/05: Code of Ethics
  - Additional requirements:
    - Delegation of Regulation-Making Authority to the Minister O.Reg. 568/05
    - Delegation of Regulation-Making Authority to the Board of Administrative Authority O.Reg. 581/05
- Other regulations for consumer protection; ex. there are 3 different areas that affect commissions

### Impact of REBBA on a salesperson:

#### Eight parts, four covered here:

- Part III: Prohibitions Re: Practice : addresses the restrictions affecting a brokerage and salesperson related to trading in real estate and the exemptions to registration
- Part IV: Registration – Outlines the regulations regarding registration of a brokerage and a salesperson
- Part V: Complaints, Inspection, and Discipline – Regulates procedures relating to complaints, brokerage inspections, and discipline proceedings
- Part VI: Conduct and Offences: - Regulates the conduct of a brokerage and salesperson with some sections focused on the interactions held with a seller or buyer

### REBBA Code of Ethics:

- Identifies minimum standards a registrant must follow when trading in real estate; sets requirements for acceptable conduct to protect the public interest, ensure public confidence in professionalism of all registrants

### Consequences of Non-compliance with the Code of Ethics:

- Strict penalties imposed by the Discipline Committee; a panel will hold hearing for final decision; could order salesperson to complete relevant educational courses, pay a fine, pay a fixed/imposed cost

- Committee will publish a copy of its decision and reasons, on website for at least 60 months

## **Mod 5 – Lesson 2**

### Trading in Real Estate:

#### Definition of a trade:

- Disposition/acquisition/transaction of/in real estate or offer/attempt to list real estate for these purposes; or in furtherance of any of these 3
- Any activity that furthers a real estate transaction  
Ex. Listing, showing, marketing, arrange a commercial lease, etc.

#### Registration requirement to trade:

- Brokerage, broker and salesperson must be registered under the Act to perform any activities deemed to be a trade in real estate; broker/salesperson must be employed by brokerage to be registered under the Act

#### Unregistered persons:

- A registrant can employ a person who is not registered to assist them when trading
- Permitted activities (under guidance of a broker or salesperson):
  - o Attend listing to assist, ex. take photos, measure rooms
  - o Set up listing files, complete marketing sheets based on data obtained by the salesperson
  - o Witness a seller or buyer signature
  - o Schedule appointments to show listed properties
  - o Draft an offer based on direction of a broker/salesperson
  - o Provide listing info to consumers, ex. flyer
- Not permitted activities:
  - o Be an active participant in a listing or offer presentation; like giving advice
  - o Explain or advise seller on changes to listing agreement
  - o Receive or acknowledge a notice on behalf of a seller or buyer
  - o Show property to a buyer; explain or negotiate an offer with seller or buyer
  - o Host an open house, perform prospecting like phone solicitation or door knocking

#### Exemptions to Registration:

##### Examples:

- Auctioneer auctioning the property or other material of a retired farmer
- Full-time salaried employee working at a new home builder's site and representing the builder in negotiations
- A lawyer settling an estate and selling a parcel of land on behalf of the estate
- A financial institution disposing of a property under a mortgage default
- A property owner selling their home privately
- A property manager leasing an apartment on behalf of a landlord



- Trading in seasonal/vacation rentals and commercial leases require registration as the exemption applies to a person who trades solely for purpose of arranging leases under Residential Tenancies Act

Notification of Registration Required:

- Salesperson must be notified in writing that they are registered with RECO before trading
- Once application approved, registration begins, e-copy is available on MyRECO Certificate mobile app
- Brokerage and a salesperson must be registered at the time of providing services relating to a trade to make claim for commission or other remuneration

**Mod 5 – Lesson 3**

Broker of Record Requirements, I:

- Brokerage must provide the Registrar with name of broker of record in writing; if broker of record changes, brokerage must notify the Registrar within five days of the change
- Sole Proprietorship: Owner of brokerage and broker of record

Broker of Record Requirements, II:

- Roles

Registration Considerations – Financial Position:

- When there is an application for registration or renewal of a registration, the Registrar takes several things into consideration; one of the key ones being the applicant's financial position:
  - o Cannot be a corporation
  - o Financial position
- Application for registration requires disclosure of certain circumstances, including unpaid judgements or debts outstanding, bankruptcy or a consumer proposal, personal insolvency, or as a party to a bankruptcy or insolvency proceedings
- Interested person: Financial interest in other person's business, exercises direct or indirect control over that individual, or provides financing ; does not need formal ownership position ; if associated, deemed as interested party

Registration Considerations – Past Conduct:

- Any past conduct that gives reasonable grounds that applicant will not conduct business responsibly

Registration Considerations – False Statements:

- Must provide full and complete info on application; non-disclosure of required info or false statements made in the application may be considered as grounds for refusal to register by Registrar

Registration Considerations – Refusal to Register:

If Registrar believes applicant does not meet requirements regarding financial responsibility, past conduct, and false statements, Registrar may:

- Refuse to register an applicant
- Suspend or revoke a registration
- Refuse to renew a registration

There are also additional conditions/requirements on applicant for registration to be approved:

Ex.

- Person w/ financial issues provides quarterly reports to Registrar w/ proof of payments made to reduce debts, etc.
- Person w/ discharged bankruptcy agrees to not apply to be officer, director, partner, broker of record, etc. for a time-period
- Person w/ criminal charges enter into Conditions where they keep Registrar's office updated on court dates, disposition of charges, and court docs like judge's reason for sentencing

Notification given to applicant upon proposal to refuse/suspend registration or renewal or apply conditions previously not stated

#### **Mod 5 – Lesson 4**

Complaints – Request for Information

- Anyone can send complaint if impacted by actions of a registrant
- To assess complaint relevancy, RECO notifies registrant of complaint w/ details necessary for him to respond fully to allegations; RECO may also ask for more info and salesperson must give it within a time period after receiving a written request
- Broker of record provided a copy of any complaint against an employee, any necessary communication regarding the matter, and the final outcome
- RECO can discipline but not provide compensation in any form
- If complaint outside of RECO's jurisdiction, or no evidence to support claim, no action is taken
- Various disciplinary actions taken depending on severity of offence
- Progressive discipline: Some infractions are honest mistakes; but if made repeatedly something is happening; RECO often take this approach  
Ex. 1<sup>st</sup> offence - Warning, correct problem; 2<sup>nd</sup> offence – Warning + Course, correct problem + take RECO advertising workshop course; 3<sup>rd</sup> offence – Discipline hearing, potential fine for broker of record and sales representative

Addressing Complaints:

Procedures Registrar can take when handling a complaint:

- Acknowledgement and undertaking: RECO may accept an acknowledgement from a registrant of their non-compliant behavior and an undertaking that it will not be repeated  
Ex. As an undertaking, registrant promises to follow all advertising guidelines
- Apply voluntary conditions: RECO, with the registrant's consent, may apply voluntary conditions to a registration; conditions considered case-by-case  
Ex. As condition, registrant agrees to submit all advertising to RECO for review for 3 months
- Request a meeting: RECO may request meeting with registrant to discuss the complaint; he may receive an informal educational reminder, advice or caution

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- Ex. A meeting with salesperson includes a review of requirements for disclosure to all buyers
- Mediate or resolve complaint
  - Issue a written warning: RECO may issue a written warning that if the conduct that led to the complaint continues, further action may be taken
  - Require educational courses: RECO may require a registrant to take further educational courses

#### Addressing Serious Complaints:

- Immediate suspension: To ensure consumer protection
- Registrar proposal: When registrant is in contravention of the Act or Regulations, RECO can issue a notice of proposal; proposal would identify action to be taken, such as revoking, suspending, etc. and the reasons for the action; registrant can appeal the proposal to the License Appel Tribunal within 15 days after service of the notice; if no request received, RECO carries out proposal
- Director's action: The Director, under REBBA, may appoint investigators; search warrant, freeze order may be issued
- Provincial offences prosecution: Legal prosecution; fines, prison,
- Refer to a law enforcement agency: where Registrar is concerned a registrant's actions may constitute criminal activity, matter referred to municipal, provincial or federal law enforcement agency

#### Brokerage Inspection:

- RECO conducts inspections to ensure compliance with REBBA, deal with a complaint, ensure registrant remains entitled to registration
- Can inspect during reasonable hours; inspectors must be provided access to all relevant to inspection

#### Consequence of Violating Code of Ethics:

- May be referred to the discipline committee to hear and determine whether registrant failed to comply with the Code
- A panel is composed of 3 or more members of the Discipline Committee; panel will hear the matter and decide if there has been an infraction + give penalties

#### Appeals Committee:

- Registrants may appeal a Discipline Committee decision to an appeal committee; RECO provides info required regarding anything or anyone

### **Mod 5 – Lesson 5**

#### Brokerage Trust Account:

- All brokerages must establish and maintain a real estate trust account, used to deposit all money received by the brokerage in trust for other persons in connection with the brokerage's trades
- These deposits are to be kept separate and apart from money belonging to the brokerage; all transactions authorized, all cheques signed by, broker of record; he is responsible for all deposits and must complete monthly bank reconciliations to ensure there is no shortfall in funds

- A salesperson can assure a buyer that their deposit being held in brokerage's trust account is safeguarded and insured via the RECO insurance program

#### Trust Account Deposits and Disbursements:

- Must deposit funds within five business days of receipt
- Must disburse funds from the trust account as soon as possible; brokerage must be advised by the seller's lawyer that the transaction has closed, and the funds can then be disbursed to pay towards the commission owed;
- If a transaction does not close, funds may only be disbursed by:
  - o The seller and buyer signing a mutual release or direction agreeing to the disbursement
  - o A court order authorizing the disbursement if the seller and buyer did not agree
- Detailed disclosure regarding interest earned on trust funds; determination of interest payment should be clearly outlined in the agreement of purchase and sale + terms + who is paid the earned interest
- Receiving a buyer's deposit:
  - o Deposits should be made by cheque, money order, or bank draft and amounts must be exactly as agreed to in the agreement of purchase and sale
  - o Certified cheque may be required in some instances to ensure funds are available
  - o Where a co-operating brokerage receives a deposit that is directed to another party (ex. listing brokerage) a receipt from that brokerage should be obtained
  - o A buyer's salesperson should ensure buyer understands their obligations regarding a deposit and provide the deposit to the deposit holder without delay

#### Employment with a Brokerage:

- Registrant cannot be employed by 2 brokerages at the same time

#### Commission Restrictions:

- Calculating Commission: An agreed amount, percentage of sale price/rental price, or a combination of both
- Commission percentage: Percentages decrease as sale price or rental price increases  
Ex. Listing identifies commission is 5% for the first \$300 000 in selling price and then decreases to 4% for the balance of the selling price;  
If property sold for \$650,000 the commission is calculate as:
  - 1) \$300,000 at 5% = \$15,000
  - 2) \$350,000 at 4% = \$14,000 for a total commission of \$29,000
- Prevailing rate: If no commission is agreed upon between buyer/seller and a brokerage, the prevailing rate in the community is used (commission commonly charged for the particular services based on the property type in the marketplace)
- Prohibition: Commission based on the difference between the listing price and the selling price is not allowed; ex. property selling at \$250,000, its prohibited for commission to be an amount over the price the property sells for

#### Purchase or Sale by a Registrant:

Requirements if a registrant directly or indirectly acquires or divests of an interest in real estate

- Direct interest: When a registrant is the buyer or seller
- Indirect interest: Can be any benefit a registrant may gain from a transaction, beyond the fees or commissions they may or may not stand to earn on the transaction
  - Ex. When a relative, such as a parent or child of the salesperson, is the seller or buyer
  - When a salesperson or their relative is a shareholder of a corporation, or a partner in partnership, that is selling or buying
  - When a salesperson or their relative has another role in the transaction that is not evident, such as being the lender/mortgagee
- These obligations require a salesperson to provide a notice to all other parties and receive signed acknowledgements from those parties prior to making an offer
- Notice must include:
  - o A statement that the individual is a salesperson, broker, or brokerage
  - o Full disclosure of all known facts that may affect the value of the property
  - o Details of any third-party negotiations for the subsequent sale of the property
- Salesperson must retain a copy of the other party's written acknowledgement of the disclosure prior to presenting an offer
- Disclosure must be separate document and cannot be included as a statement in an agreement of purchase and sale

#### Providing Disclosures for Buying or Selling an interest in Real Estate:

- Direct and Indirect interest
- Disclosure: When a registrant is involved in a transaction where they have a personal interest in the outcome, be it direct or indirect, a written disclosure must be made; must happen before any offer is made and include the following info:
  - o Notice that they are a registered brokerage, broker, or salesperson
  - o All facts within their knowledge that may affect the value of the real estate involved
  - o Notice of any negotiation, offer or agreement that they have conducted or that has been conducted on their behalf, for the subsequent sale, lease, exchange or other disposition of an interest in the real estate to any other person
  - o Details of any payment that will be received from anyone as part of the transaction, other than what is listed in a representation or customer service agreement must also be disclosed as required under Section 18 of the Code
- Written acknowledgment: Salesperson must obtain written acknowledgment from the other parties that they have received the required disclosure before the offer can proceed;

#### Steps:

- 1) Identify that there is an indirect/direct interest
- 2) Provided written disclosure of the interest
- 3) Obtain written acknowledgment of disclosure from the other parties prior to offer

#### Advertising practices that violate REBBA:

- Misleading statement: Causes a reader to have a wrong idea or impression
- False statement: Can be shown to be factually incorrect

- Deceptive statement: Causes something to be easily mistaken for something else or causes the reader to believe something that is not true; purposefully misleading
- Inaccurate representation: Making a statement that is true, but is vague or incomplete, could be considered an inaccurate representation in advertising

#### Violations for False Advertising:

- Order false advertising to immediately stop
- Order the registrant to retract the statement or publish a correction of equal prominence to the original advertising
- Order the registrant to do both above
- Registrar may require pre-approval of a registrant's advertising for up to one year

#### Potential Penalties:

- Registration suspended or revoked, registrant can be charged; pay compensation or restitution to the affected parties

#### Mod 5 – Lesson 6

- Honesty, Integrity, best interest of client, informed decisions, full disclosure to clients, limited to customers
- Must disclose material facts to provide conscientious and competent service
- A buyer's salesperson will be more involved in determining material facts affecting a property purchase as these may already be known by a seller; Ex.
  - Condition of the structure such as a roof leak, mechanical or electrical deficiencies, or basement water seepage
  - Environmental hazards such as asbestos, lead, mould, or a previous use as a grow-op
  - Building measurements or lot size
  - Property taxes

#### Mod 5 – Lesson 7

##### Advertising Methods:

- Identification of registrant:
  - o All advertising by a registrant must clearly and prominently include the name of the registrant placing the advertisement; (legal/trade name) which is registered with RECO
  - o Identification of individuals: If an individual's broker or salesperson is identified by name, the name used must be the name in which the broker or salesperson is registered with RECO
  - o Identification of brokerage: Must clearly identify the brokerage
  - o Description of registrant: Correct, specific descriptions of the registration status must be noted (job title)
  - o Confusing terms: Registrants must not use any terms to describe a registrant in an advertisement if the term could reasonably be confused with the registration status required by this section of the Code; ex. "sales agent, sales associate, or sales consultant" are not permitted

### Inaccurate Representations:

- Cannot make incorrect statements; inaccurate representation of anything  
Ex.  
Salesperson advises a buyer client that what appears to be a minor crack in the foundation is “nothing to worry about”  
A salesperson states a home is solid brick when it is a framed structure with a brick veneer exterior
- Claims, promises, statements, cannot be vague or misleading  
Ex. of potential problem areas related to services provided by a registrant are:
- Comparative rankings (e.g. “#1 in brokerage in town”)
- Claims about business volume or trading activity (e.g. “over 100 transactions last year”)
- Promises of saving or rebates (e.g. “\$1,000 cash back”)
- Honours or awards received by the registrant (e.g. “President’s Award”)

### Advertising Leading Practices:

Several practices that should minimize the risk that a salesperson’s advertising will face scrutiny:

#### Comparative Claims:

- Leading Practices: Ensure any advertisement that expressly, or by implication, makes a comparative claim regarding a registrant’s business performance, discloses the basis of that comparison or claim including disclosure of the details of the info used to make the claim and source of info

#### Statements regarding business volume/trading:

- Leading Practice: Ensure any advertisement that includes statements or claims that state, imply, allude, or refer to a volume of business or trading activity are accompanied by disclosure of how that claim has been determined, including the relevant time period; Claims that refer to volume of business or trading activity should disclose the identity of the salesperson, salesperson, or brokerage about whom that reference is made;  
When a “team” claim is used, the size of the team should be noted or identities of members of the team should be provided

#### Promises or statements regarding commission or savings:

- Leading Practice: Ensure any advertising claims that refer to commission rates include disclosure of any conditions where commission rate would or would not be charged

#### Statements or indications of honours and awards:

- Leading Practice: Source and date of award or honour; should not refer to a shared award without indicating that it was shared; not an award if paid for

#### Avoid error, misrepresentation and fraud, unprofessional conduct, abuse, and harassment

- Provide conscientious and competent service
- Act in seller/buyer best interest
- Demonstrate reasonable knowledge and competence in providing advice
- Treat everyone with fairness, honesty, and integrity

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## Mod 6 – Lesson 1

### Definition of a Contract:

A legally binding agreement between two or more persons, competent at law to enter into such an agreement, for consideration or value, to do or refrain from doing something lawful; a contract is an agreement that confers a legal obligation on the relevant parties to do or not to do something

- Promise made by one to another enforced by law
- To be enforceable a contract requires: an understanding between the parties to the contract to create a legal obligation or duty, on one party to fulfill the promise and conferring a legal right on the other to demand as fulfillment
- The underlying intention of any contract is that it is binding on the parties; oral contracts, letters, or legal documents; any contract for acquisition or disposition of an interest in land must be in writing

### Legislation Impacting Contracts

- Legislation impacts the preparation of agreements for the sale or lease of real estate
- *Statute of Frauds*: requires that all contracts involving the transfer of ownership of real estate must be in writing to be enforceable by law; exception, when a contract is verbal but parties begin to complete the contract, then it could be enforceable
- *The Vendors and Purchasers Act* deems certain info to be included in every agreement of purchase and sale:
  - o Must be complete and accurately describe the subject of the agreement and the parties' intentions to be considered enforceable
  - o Seller is not bound to produce any abstract of title, deed, copy of a deed, or other evidence of title except as are in the seller's possession or control
  - o Buyer shall search the title at the buyer's own expense and shall make any objections within 30 days from the making of the contract
  - o Seller has 30 days in which to remove any objection made to the title; if unable or unwilling to remove any objection that the buyer is not willing to waive, seller may cancel the contract and return any deposit made, but is not otherwise liable to the buyer
  - o Taxes, local improvements, insurance premiums, rent and interest shall be adjusted as at the date of closing
  - o The conveyance (legal process of transferring of ownership from one party to another) shall be prepared by the seller and the mortgage, if any, by the buyer; buyer shall bear expense of registration of the transfer/deed and the discharge of the mortgage, if any
  - o Buyer entitled to possession or receipt of rent and profits upon the date of closing of the transaction
- REBBA identify requirements for the content and delivery of real estate agreements:
  - o All agreements reduced to writing at the earliest opportunity, signed by brokerage, submitted to the seller or buyer for signature
  - o Copies of representation agreements be immediately given to the seller or buyer
  - o In terms of agreements for conveyancing real estate, Code requires that registrants use their best efforts to ensure that such agreements are in writing and legible and ensure all parties to an agreement receive a copy as soon as possible and ensure deposits, and

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other documents relating to the agreement be delivered in accordance with the agreement of purchase and sale

- Parol: Court says oral agreements are inadmissible in court to contradict a written contract, unless fraud or mistake; any changes to contract must be agreed upon by both parties in writing
- Privity of Contract: Only parties to a contract can enforce it or be bound by it

Create a binding contract:

Essential elements:

- Offer and acceptance: Mutual agreement between parties
  - o Complete and definite in its terms
  - o Open for acceptance for a reasonable time frame
  - o Must be communicated to the offeree
  - o Made to one or more persons or corporations, or to the public in general
  - o May be revoked or withdrawn prior to acceptance, subject to certain limitations
  - o Once accepted; it is unconditional, any change is a counter offer;
- Capacity of parties: Legally competent to make the contract:
  - o Incapable of contracting the mentally incompetent, the intoxicated, non est factum (whether person knew what was being signed), minor (age of majority (18 for Ont))
  - o Corporation: Does it exist and do they have right to enter into such a contract?
  - o Partnership, Condominium/ Co-operative and Non-profit organizations can enter into contract
- Consideration: Each party must receive something of value
  - o As long as value exists (and is not extensively one-sided) it is valid or if no value; must be signed under seal, meaning you cannot change your mind
  - o Lawful object or purpose
  - o Past consideration or past promises not included in contract are not enforceable or binding
- Definite and clear: Subject and terms of agreement must be stated clearly
- Lawful object: The contractual agreement must be lawful; no price fixing/criminal activity
- Genuine intention: Both parties must consent to the terms of the contract

Lack of Genuine Intention:

- Mistakes
  - o **Common mistake:** Both parties know the intention of the other, accept it, but are mistaken about an underlying fact
  - o **Mutual mistake:** Parties misunderstand each other, at cross-purposes, contrary understanding
  - o **Unilateral mistake:** One party is mistaken about a fundamental aspect of a contract
- Misrepresentations:
  - o **Innocent:** Statement by one party of a fact that is wrong, but honestly believed to be true

- **Fraudulent:** Made with knowledge of its falsity or with reckless disregard for its truth; purpose must have been to induce other party to enter a contract; Relied to the other party's prejudice
- **Negligent:** If a misrepresentation is made without reasonable verification of its accuracy, then the person misled may lawsuit for damages
- Duress or Undue Influence and Failure to Disclose:
  - Duress or Undue influence: improper use of one person's power over another to induce that person into a contract
  - Failure to disclose: Non-disclosure of material latent defects might invalidate a contract; latent defect is a defect not easily observable

A contract not fulfilling all requirements is void (never came into existence), voidable (originally valid but capable of being rejected by offended parties at a later time) or illegal (not enforceable by courts)

Voidable contracts are enforceable until rendered void; offended party elects to fulfill or void contract

### **Mod 6 – Lesson 3**

Breach of Contract:

- Failure to fulfill or perform obligation under contract by one of the contracting parties
- May result in: conferring a right of legal action on party impacted by the breach or releasing the impacted party from further obligations
- Fundamental breach: Breach considered to go to the root of the contract
  - In this case, the impacted party may:
    - Accept breach and treat themselves as released from further performance
    - Accept breach and start an action for damages against the breaching party
    - Treat contract as still in effect and waive breach
    - Seek other remedies, if available
- If breach does not go to the root of the contract, may give rise to the impacted party to sue for damages without an option to discharge the contract; sometimes referred to as a minor or compensable breach

Remedies for a Breach of Contract:

- Rescission: Revocation or cancellation of a contract, set aside by court
- Damages: Compensation for losses incurred; arising naturally (usual course of events from breach of contract) or may be reasonably expected to have been in the contemplation of parties at time contract was made
- Quantum meruit: Reasonable sum for services rendered, determination by courts that directs payment to claiming party
- Specific performance: Exceptional remedy; order of court directing party in breach to carry out a specific obligation; may only be awarded where damages are not an adequate remedy, contract is far and just, injured party acts promptly and fairly in making their claim
- Injunction: Where broken promise is to refrain from doing something, court may award an injunction to restrain offending party from doing that act; court order stopping a party from doing something wrongful

#### Termination of Contract:

- Performance: Obligations of performing party fulfilled, rights of other party satisfied
- Mutual agreement
- Impossibility of performance: Unanticipated circumstances arising after making of contract
- Operation of Law: ex. death of a party, bankruptcy, unauthorized unilateral alteration of contractual terms
- Breach

#### **Mod 6 – Lesson 4**

##### *Electronic Commerce Act – E-signatures*

- Govern creation, recording, transmission, and storage of contracts electronically
- All agreements are allowed e-signatures
- Fields are highlighted where signature required
- Ensure acknowledgement is received
- Allows authentication: confirms signature is from the right person, and authorized use: signature is permanent and tamper-proof to prevent fraudulent use of signature

#### **Mod 6 – Lesson 5**

##### 10 Principles of Privacy (PIPEDA):

- Accountability: Designate individuals accountable for organization's compliance with the following principles
- Identifying Purposes: Purposes for collecting info is identified
- Consent: Knowledge and consent of individual for collection of personal info
- Limiting Collection: Collection of info which is necessary
- Limiting use, disclosure, and retention: Personal info used for purpose only
- Accuracy: Personal info shall be accurate, complete, and up-to-date as for purpose
- Safeguards: Personal info protected
- Openness: Its policies and practices are readily available
- Individual access: Individual informed of existence, use and disclosure of their personal info
- Challenging compliance: Individual can address a challenge concerning compliance with the principles

##### Three types of information (PIPEDA only applies to the first two types):

- Personal information: Info about an identifiable individual ex. name, address
- Sensitive Personal Information: Subset of personal info dealing with sensitive data, ex. financial info
- Personal Facts: Non-identifiable facts, storage of personal facts is not regulated provided info is anonymous, ex. data in a demographic analysis

##### Brokerages must designate a privacy officer to ensure compliance with PIPEDA:

- Implement policies and procedures for personal info at the brokerage
- Ensure adequate levels of security, ensure consumers can correct or add details and access info stored by the brokerage

- Include privacy provision statements in agreements
- Brokerages must prepare a brochure for clients/customers explaining about privacy legislation and how their info is protected; must add a sentence that the brokerage complies with the privacy legislation in all promotional materials

#### Salesperson's Obligations under PIPEDA:

- State purpose of obtaining info and get consent
- Identify to consumers the use of their personal info
- Collect only info necessary
- Disclose reason for collecting
- Maintain privacy
- Return info

#### Mod 6 – Lesson 6

##### Matrimonial Home

- Every property in which a person has an interest and that is or, if the spouses have separated, was at the time of separation ordinarily occupied by the person and his or her spouse as their family residence is their matrimonial home (basically the family is living in that home)

##### Matrimonial Property

- Any family asset not considered to be the matrimonial home with exceptions such as inheritances and insurance settlements
- Both spouses have an equal right to possession of a matrimonial home even though only one is on the title; it is a personal right and not an interest in land; they can have more than one matrimonial home; ex. house and cottage

##### Designation of Residence:

- Property deemed as the only family residence at the time of designation
- Any property can be designated by both spouses as a matrimonial home by joint registration; all other matrimonial homes are then released from the protection of Part II of the *Family Law Act* and issues concerning possession and the consent of the non-owner spouse are eliminated
- If only one spouse completes a designation, all of the remaining matrimonial homes retain their status despite that registration

##### Spousal Rights in a Matrimonial Home

- All parties consent to the transaction; must obtain the signature of both spouses for all legal docs
- Party who owns property will sign docs as a seller and the non-owner as spousal consent
- Non-owner spouse has the right to be notified of any proceedings by a third-party that could affect that possessory right
- Spouse can also bring court application to determine ownership rights and to restrain the other spouse from disposing of property without consent

## Rights of a Common-law Spouse

- Spouses include common-law partners who have cohabited for more than 3 years, or who cohabitate and the natural or adoptive parents of a child or children; same-sex partners
- Spouses who live together and are not married may have a family home, but it is not a matrimonial home
- Matrimonial vs Family home
- One common law spouse owns the family home, they can sell or mortgage it without the other common-law spouse's permission, but this is prohibited with matrimonial home of a legally married couple
- In a common-law relationship, in the event the family home is sold and relationship is dissolved, registered owner may be required to make arrangement for satisfactory accommodation of the common-law spouse and/or provide support payments

## Mod 6 – Lesson 7

### Planning Act:

- To promote sustainable economic development within the policy
- To provide for a land use planning system led by provincial policy
- Integrate matters of provincial interest in provincial and municipal planning decisions
- To make planning processes fair by being open, accessible
- Planning Act provides framework for orderly land development then gives general administrative control of the land use planning in Ontario to the Minister of Municipal Affairs and Housing, who issues the provincial policy statements

### Types of Municipalities:

1. Single-tier municipality: Assumes all municipal responsibilities set out under the Municipal Act and other provincial legislation, ex. City of Toronto, Windsor, London, Sudbury, etc.
2. Upper-tier (in the two-tier municipality): Formed by two or more lower-tier municipalities; municipal responsibilities set out under the Municipal Act and other provincial legislation are split between the upper and lower tier municipalities; upper is usually the region, county or district and are responsible for prep, adoption and revision of the Official Plan and the process of dividing and developing land, ex of upper-tier municipalities are counties like: Wellington County, Simcoe county, etc. or a regional municipality like: Regional Municipality of York, Halton, Peel, Niagara, etc.
3. Lower-tier (in the two-tier municipality): Responsible for prep, adoption and revision of the Official Plan and adoption of zoning-bylaws, interim control bylaws and other bylaws; ex. City of Mississauga, Brampton, etc. When an upper-tier exists it will often coordinate planning between the respective lower-tier municipalities or assume responsibility of something upon agreement; otherwise lower-tier handles land-use matters within its jurisdiction like location, type and density of development

Actual process of Planning Act carried out by municipal organizations, provincial government maintains the function of approving proposals, following passage by municipal council

Provincial interests are perfect planning within the province which everyone must follow:

- Conservation and management of ecological systems, agricultural resources, natural resources, mineral resources base, and spaces of architectural, cultural, historical, and archaeological significance
- Accessibility for persons with disabilities to all facilities and services
- Adequate provision and efficient use of communication, transportation, sewage and water services, waste management systems
- Adequate provision and distribution of educational, health, social, cultural, and recreational facilities, housing, and employment opportunities
- Resolution of planning conflicts involving public and private interests and promotion of sustainable development
- Promotion of built form that encourages a sense of place and provides spaces that are safe, attractive, and vibrant

Provincial Policy Statements:

Contain major policy areas concerning management of change, promotion of efficient, cost-effective development, and land use patterns stimulation economic growth and protecting the environment and public health; statement reviewed every five years

Policies to :

- Support long-term planning for alternative and renewable energy sources like wind power
- Discourage urban sprawl across Ontario by supporting intensification (expand on previous housing rather than build new ones)
- Protection of environment
- Protect natural heritage resources
- Promote development of affordable housing
- Respond to concerns about loss of farmland by prohibiting retirement lots and residential infilling on prime agricultural lands
- Support and protect rural areas

Official Plan:

*Planning Act* establishes parameters for the development of the Official Plan

- Approved by Minister of Municipal Affairs and Housing
- Deals with locating new structures, what services will be needed
- Each municipality need to have an Official Plan
- Describes upper, lower, single-tier municipal council's or planning board's policies on how land in the community should be used; extends for 10-15 years, reviewed every 5-10 years based on growth and needs of community
- In Ontario where there are no organized municipalities, responsibility of the application of the Planning Act, which would include development of an Official Plan if necessary, is the responsibility of the province of Ontario

Contains:

- Goals, objectives, policies relating to physical change in regard to its effects on social, economic and natural environment
- Where new things will be located, what services will be needed
- Description of measures and procedures to attain these objectives and inform public and obtain views regarding amendments to the plan

Purpose:

- Provide framework for future decision-making and to respond in an organized fashion to trends and influences experienced by that municipality or anticipated

Creation:

- Formal process including, input from citizens

Approval process:

- Usually requires approval by the Ministry of Municipal Affairs and Housing
- Sometimes may not, ex. a regional government may be authorized by the Ministry to approve local Official Plans within that region
- Once approved, no development can take place unless conforming to the Official Plan

Process/Timeline for review of Official Plan:

- An Official Plan amendment is a formal document that alters the current Official Plan
- Should be update at least every 5 years to ensure the plan is consistent with the provincial policy statements

**Mod 6 – Lesson 8**

Zoning Bylaws:

- Enacted by municipalities to identify permitted use, building structure standards
- Divided into classifications (like residential) and sub-classifications (like single-family)

A zoning bylaw:

- Implements Official Plan tings
- Legal method of managing land use and future development
- Protects community from conflicting and dangerous land uses
- Controls use of land and states exactly:
  - o How land may be used
  - o Where building and structures can be located
  - o Lot sizes and dimensions, parking requirements, building heights, setback from the street ( setback = minimum distance of building from its surrounding property boundaries)

Zoning designations:

Six general uses:

Each class further divided into sub-classes or zones designated with symbols; Residential (R) further categorized as R1, R2, R3, R4, etc., with higher numbers typically indicated greater density

- Residential (R)
- Commercial
- Industrial
- Institutional
- Open space
- Agricultural (AG)

ZONE CLASS	ZONE SYMBOL	DESCRIPTION OF THE ZONING
R	R1	Detached <u>single-family</u> dwellings.
	R2 to R5	To accommodate varying urban densities in detached single family developments.
RS	RS1	Semi-detached single-family dwellings.
RM	RM1	Multiple-unit residential buildings.
	RM2, RM3	To accommodate varying urban densities in multiple-unit residential buildings.
RR	RR1	Rural non-farm dwelling units within rural settlement areas.
	RR2	Rural non-farm dwelling units outside of rural settlement areas.

Residential Bylaws:

Sign bylaw:

Distance of sign from curb, intersection, pedestrians, cyclists; some signs like “open house”, or “for sale” can be erected without obtaining a permit but others like promotional banners require a permit from municipality

Parking bylaw:

Weight and dimensions of vehicle and requirements like a current year license plate id; number of vehicles on driveway or backyard; typically municipalities prohibit obstruction of sidewalks; parking exceptions may be made for courier delivery

Noise bylaw:

Prohibits noise at any time that is likely to disturb others like late night or early morning; activities involving a lot of noise like construction is limited to the day time to minimize disturbance to residents; may specify decibel limits and timing for operating power equipment

Committee of Adjustment:

Appointed by municipal council of a lower-tier municipality; land division committee appointed by a upper-tier municipality

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#### Functions:

- Granting of minor variances
- Providing consents to server land
- Granting consents for the continuation of a non-conforming use

#### Minor Variance and Rezoning:

- **Minor variance**, for planning purpose, is generally described as a small variation or modification concerning a property in relation to bylaws in force within a municipality
- **Rezoning application** is required when a property owner wants to use property in a manner not permitted in the zoning bylaw, and applies to amend the zoning bylaw; council will only consider if the proposed use is in keeping with the Official Plan
- **Minor variance** is less time consuming and easier process while **Rezoning application** is more time consuming, more complex
- Granted by committee of adjustment

#### Ex. Minor variance

- A homeowner wants to build a detached garage extending 6 inches into the property lot line setback; would need to apply for a minor variance from the committee of adjustment

#### Steps for Minor Variance application:

- Pre-application consultation between applicant and municipal planners
- Preliminary project review to identify zoning bylaw requirements and prepare a list of the variances required by the proposal
- Submit a complete application and fee (timeline of 30 days until committee hearing and decision)
- Schedule of hearing and posting of public notice sign
- Notice of public hearing and application details circulated to area property owners
- Committee of Adjustments hearing and decision (opportunity for third-party appeal to local planning appeal tribunal)
- Committee of Adjustment decision final and binding
- Satisfying conditions of approval (if required)

#### Steps for Rezoning:

- Pre-application consultation between applicant and municipal planners
- Submit application with documents and fee (Complete application decision – 9 months' timeline until final decision -; opportunity for motion for directinos to Local Planning Approval Tribunal)
- Application circulation (Community consultation (members of public invited to comment on application) + Technical response (impact of rezoning on municipal services, government agencies and the official plan))
- Preliminary report to Community Council (if applicable)
- Response to applicant (ex. reviews indicate municipal services will not support the proposed development)

- Application revision and resubmission (ex. applicant revises application to be consistent with current municipal services)
- Recirculation, consultation, further revisions, finalization, and staff report (if required)
- Public meeting at Community Council (if applicable)
- Council decision (Official Plan amendment (if necessary)/amended zoning bylaw in effect)
- Opportunity for third-party appeal to Local Planning Approval Tribunal

#### Non-conforming Use and Non-conforming Structures:

- Zoning bylaws are reviewed and amended regularly by municipalities to respond to community evolution
- As a result of rezoning initiatives, properties and existing structures may no longer comply with the new zoning bylaw; these are called non-conforming
- Non-conforming are legal because they use to comply; have an implicit non-conforming right to continue even though it is no longer permissible; this right is lost if the non-conforming use is discontinued for a certain time period; after cessation, the non-conforming use cannot be re-established
- Committee of Adjustments may consider:
  - o Continuous use of property (business existed, and will continue)
  - o Demolition or substantial renovation of a structure (renovation may have to comply with the new zoning bylaws)
  - o Expansion of the current use

#### Mod 6 – Lesson 9

##### Land Severance and Plans of Subdivision

- Landowners with a large parcel of land; if wanting to divide into 2 or 3 parcels, require *consent*; if wanting to divide into many parcels, application for *subdivision* required
- No specific rule

##### Land severance:

approved division of a property into 2 or 3 new lots, or dividing a property in order to add part of the property to an existing lot; requires consent from the local municipality

- Landowners must seek official permission to sever their property, as the indiscriminate division of land without formal approval could have long-term negative impact on the community

##### Consent- Granting Authority

- Permission to sever lands is with local Land Division Committee or a Committee of Adjustments
- Consent authority may be assigned to a council committee, an appointed official, or to the council itself
- Generally, division of property into two or three smaller lots is usually submitted to a Committee of Adjustment, with more significant land division, such as a plan of subdivision, require submission to local Land Division Committee

##### Steps for **Land severance:**

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1. Consult & determine authority (if property fronts on a municipal road, tier of the municipality has authority)
2. Complete application:
  - a. Including applicable consent application form, with sketches, and submit it to consent-granting authority; application fee may apply
  - b. Application has:
    - i. Name and address of owner
    - ii. Type and purpose of proposed transaction
    - iii. Name of person to which an interest in land is to be transferred or leased
    - iv. Description of the property
    - v. Detailed info concerning the land being severed and the land being retained
    - vi. Any previous application relating to the subject land
    - vii. Sketch outlining boundaries of land and any abutting lands owned by applicant
    - viii. Description of previously severed lands from the lot – natural and artificial features
    - ix. Use of adjoining land
    - x. Location of road allowances, streets, private roads and right-of-way
    - xi. Nature of any restrictive covenants or easements
  - c. 90-day timeframe for making a decision
3. Application review, if required, a public meeting is held; the consent-granting authority evaluates the merits of each proposal against criteria such as:
  - a. Conformity w/ Official Plan + Provincial Policy Statement (PPS) + zoning bylaws
  - b. Sustainability
  - c. Vehicular access
4. Decision issued; refuse, consent or grant provisional consent (may have conditions)
5. Appeal process (if applicable); decision sent to applicant and they can appeal to the Local Planning Appeal Tribunal who may dismiss it without holding a hearing or hold a hearing and make final decision
6. Issuing of certificate; if no appeal filed + conditions satisfied; a deed for newly created lot is stamped with municipality consent and deed registered at the applicable Land Registry Office
7. (When severance is conditional, typically 1-year timeline given to satisfy conditions)

Steps for **Subdivision**: Draft Plan Approval

Landowner dividing lot into several lots; plan of subdivision necessary; two-stage process: draft plan approval and final plan approval

1. Consult and determine authority: usually upper-tier municipality (region or district), city council
2. Prepare a draft plan: Developer creates a draft plan in consultation with engineers, solicitors, surveyors, and planning consultants; Requirements as in Planning Act:
  - Boundaries of the land proposed to be subdivided
  - Locations and names of proposed highways in the plan or highways abutting the property
  - Adjacent subdivision and property in which the applicant has an interest
  - Proposed use, dimensions, and layout of proposed lots and existing uses of adjoining lands
  - Natural and artificial features

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- Soil conditions and existing contours/elevations
  - Existing or planned municipal services
  - Nature and extent of restrictions affecting the land, such as from the Conservation Authority
3. Complete application: Each authority maintains application forms that require info identified by the minister's registration and other info required by the municipality; 180-day time frame for approval begins after completed application is received
  4. Approval Authority: Ensures notice of application sent to surrounding property owners, and a public meeting may be held; other agencies may be consulted to ensure compliance with the area and availability of services like:
    - Clerks of the local municipality, county, region, and/or district having jurisdiction for the area
    - Conservation authorities
    - Electric utilities, natural gas utilities, oil pipeline companies
    - Local architectural conservation advisory committees
    - Niagara Escarpment commission and federal parks commissions
    - Chiefs of First Nation councils within one kilometer of the area covered by the proposed plan of subdivision
  5. Decision and notice of decision (draft plan approval): Notice of decision sent to applicant and those requesting notification; routinely mailed to neighboring land owners within a prescribed distance of the land; notice includes description of the proposal plan, a map locating the property, source of additional info, statement concerning appeal and notification of a decision relating to the application
  6. Appeal Decision (if applicable): mostly anyone can appeal to the Local Planning Appeal Tribunal (LPAT)
  7. Final Plan Approval: If final plan of subdivision not registered within a certain time period, approval authority may withdraw its approval
  8. Final Plan registration: New plan parcel register is created; prepared by a land surveyor showing lots, blocks or parcels of land intended to be dealt with separately and this type of separation has been fully approved; registered in the land registry office; lots can then be sold and transferred

LPAT:

- Independent adjudicative tribunal that conducts hearings and make decisions on land use planning issues and other matters

Purpose:

- Hears cases in relation to a range of municipal planning, financial, and land matters; bylaws, subdivision plans, consents and minor variances, etc.

Area of jurisdiction regarding first appeals:

- Appeals of a council decision to adopt or amend Official Plan
- Appeals of a decision by an approval authority to approve a decision adopting or amending an Official Plan

- Appeals of a council decision to refuse a private amendment to an Official Plan a non-decision (not deciding within 210 days) of a private amendment application
- Appeal of a non-decision by an approval authority or on a subdivision

Area of jurisdiction regarding second appeals:

- Appeals on all issues that can have a first appeal
- Appeals of a non-decision of a site plan application
- Appeals of a Committee of Adjustment decision to approve or refuse a minor variance application, consent/severance application

Purpose of LPA Support Centre:

Help people understand and navigate the land use planning and appeal process in Ontario

- Establish and administer cost-effective and efficient system for providing support services to eligible individuals
- Establish policies and priorities for support services based on its financial resources
- Ex. Information on land use planning, guidance on tribunal procedures, advice or representation, etc.

#### **Mod 6 – Lesson 10**

Federal government oversees airport facilities/lands, oceans, canal systems

Municipalities areas of influence:

- Public utilities
- Waste management
- Transportation, other than highways
- Highways (public roads) including parking and traffic
- Culture, parks, recreation, heritage
- Drainage and flood control (except storm sewers)
- Structures (fences, signs)
- Parking (other than highways)
- Animal control
- Economic Development Services

#### **Mod 6 – Lesson 11**

Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) is Canada's financial intelligence unit and has guidelines relating to financial transactions, including real estate brokerages

Role of FINTRAC:

- Assists in detecting, preventing and deterring money laundering and terrorist financing
- Receive financial transaction reports and voluntary info on money laundering and terrorist financing
- Ensure compliance of reporting entities
- Enhance public awareness and understanding of money laundering and terrorist financing

Three salesperson's obligations

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1) Know your Client:

- a. Understand your client:
  - i. Understand them enough to identify irregular/suspicious transactions
  - ii. Ask how they found brokerage, learn about family, find out how they're connected in community and what they do for a living
- b. Ascertain/Verify client identity:
  - i. Single process method (photo ID)
  - ii. Credit file method (use a Canadian credit file existing for at least 3 years to confirm all personal info)
  - iii. Dual process method (use two independent and reliable sources to confirm identity)
  - iv. Confirm two of three categories of info:
    1. Name and address
    2. Name and DOB
    3. Name and financial account
  - v. If working w/ international client, have an agency to do it on your behalf
  - vi. Establish business relationship within five years, two transactions, within 30 days of the second
- c. Determine third-party involvement:
  - i. Who's providing instructions or supplying funds
  - ii. Ask if deal is solo or on someone else's behalf
  - iii. Obtain third party name, address, DOB (person) or principal business (entity), or incorporation # and place of issue (corporation)

Must report:

- Suspicious Transaction Reporting (STR): submit w/ reasonable grounds, through brokerage's compliance officer, within 30 days of determining that a transaction is suspicious
- Large Cash Transaction Reporting (LCTR): Report if you receive a \$10,000 in a single transaction OR multiple amounts from the same source, in a 24-hour period over \$10,000; submitted to FINTRAC through brokerage's compliance officer within 15 days of transaction
- Terrorist Property Reporting (TPR): Know/believe property is owned, controlled by terrorist or terrorist group;

PCMLTFA Recordkeeping Obligation

Must keep five kinds of records:

- Client info records: for five years
- Receipt of funds records: for five years
- Records of all submitted reports (STRs, LCTRs, or TPRs): STRs and LCTRs for five years, TPRs no timeframe
- Unrepresented party records: Record measures taken to determine their id and dates you did this; **not required to keep this info**
- Records of reasonable measures taken: Record when reasonable measures were taken but unsuccessful; dates and reasons why you were unsuccessful

Five additional obligations under the PCMLTFA (for brokerages):

- Name a compliance officer
- Have a written compliance policy and procedures
- Provide training to everyone acting on its behalf (and keep records of events, attendees, minutes, material)
- Complete a written risk assessment: Analysis of potential threats and vulnerabilities to money laundering and terrorist financing that the brokerage faces
- Carry out a two-year program effectiveness review: check for effectiveness of compliance program

Penalties:

- Non-compliance: Money \$200,000 - \$2 million
- Administrative Monetary Penalties: Money \$1 - \$500,000

## **Mod 6 – Lesson 12**

Condominium Corporations:

Created with both a declaration (the condominium constitution) and the description (the diagrammatic presentation of the property)

Declaration for creation of the condominium:

- Required info:
- Statement that the Condominium Act governs the corporation
- Consent of registered mortgagees
- Proportionate share of common elements appurtenant to each unit
- Proportionate contribution of unit owners to common expenses
- Corporation address for service
- Common elements for designated units (exclusive use common element), if applicable
- Any conditions required by approving authority

Description for creation of the condominium:

The description contains a series of plans, surveys, and specifications describing the property and structures, together with certificates attesting to compliance and accuracy. Documentation will vary based on the individual project and typically includes:

- Plan of survey
- Architectural plans and Certificate of Architect
- Unit boundaries
- Unit shape, dimension, and location
- Structural plans (if any) and Certificate of Engineer
- Certificate of Ontario Land Surveyor
- All interests appurtenant to the land that is included in the property

Invoking the Condominium Act

- It is a legislation that regulates most aspects of a condominium's formation, purchasing, and governance; each condominium document based on this Act
- The act is invoked by the declarant through the registration process
- The declarant is the individual who holds the freehold or leasehold interest in the land on which the condominium sits
- Must have consent from registered encumbrancers against the property like mortgagees and lien holders

#### Forming and naming of a condominium corporation

- Corporation without share capital is automatically formed upon incorporation in which members are the unit owners
- Declaration serves as a notice of creation of corporation and describes property
- Land registrar for the applicable land registry office gives the corporation a name and a sequential number  
Ex. Anycity, South Condominium Corporation 986

#### Residential Condominium Conversion Projects:

- Conversion of warehouses and industrial structures into residential condominium lofts incorporating interesting features like large windows, framing, brick walls), becoming more popular as cities look to repurpose existing building stock
- Ontario new home warranties plan act protects buyers of these condominiums
- Extension of provincial warranty coverage applying to projects where an agreement of purchase and sale of units in a conversion project is signed on or after Jan 1, 2018
- Condominium conversion of an existing residential building like an apartment block, is not eligible for the provincial warranty coverage

#### To streamline disputes between condo owners and board, two independent authorities:

- Condominium Authority of Ontario:
  - o Provides:
    - o Affordable access to quicker, and lower cost resolution of disputes
    - o Tools to prevent easily resolvable disputes
    - o Education and awareness for owners, directors; guide for buyers
    - o Registry of all condo corps in ontario
- Condominium Management Regulatory Authority of Ontario

#### Mandatory training for condo board (through condominium authority of ontario):

- Directors must take training that requires:
  - o Directors complete training within 6 months of the date of their election
  - o Do not have to retake training if they completed it within the preceding 7 yrs
  - o Directors appointed by a developer or elected by owners to the pre-turnover (controlled by the developer) are exempt from the training
  - o Failure to complete training = disqualification from director



Condo reserve fund:

- All condo's must have a reserve fund; separate from their operating fund; used for major repairs/replacements; portion of each owner's monthly common expenses fee is deposited into the reserve; if repair costs to common elements exceed reserve, owners will have to pay
- Corps must have a fund study the initial year; and every 3 yrs after that

Key provisions of condo act:

Rules, regs, bylaws:

- Bylaws documents standard procedures and requirements for condo's internal operations
- Bylaws operated by board of directors and must have a majority of unit owners vote in favour

Brd of directors:

- Can change but must provide copy of rules, effective date and notice that they may have a meeting
- Rules not effective until approved at a requisitioned meeting within 30 days; no meeting = rules are a go
- All owners' must pay common expenses no matter what and any failure is like that of a mortgage
- **Status certificate**: contains info regarding status of individual unit, the operational, legal, financial dimensions of the condo corporation; each person that request it must get a certificate within 10 days after requesting the document for a fee no more than \$100 + tax
- Restrictions to owner alterations and additions: Renovations and repairs lack approvals or non-existent documents; condo corps may say no installations, alterations, temp or permanent improvements, etc.

Condo management:

CMRA (condo management regulatory authority of ON):

- Issues four types of licenses, 3 of which are for people depending on education and experience in condo management; the last one is for condo management companies
- All licenses must be renewed annually; retake training courses; some exempt if providing services within the specialization of their profession

Code of ethics for condo management:

Do everything right

Ex. no gifts if it influences them, treat everyone honestly

Condo owner can file a formal complaint to CMRA if they believe a manager or company violated the code; may require site inspection and a hearing

CMRA handle complaints, look for mediation, but will discipline a hearing if needed; may

## Mod 6 – Lesson 13

Tenancy types: Residential and commercial

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- If property used for business or commercial activity; the commercial tenancies act applies
- If property used for residence, with some exceptions, residential tenancies act applies

#### Residential Tenancies Act:

- Rent negotiate prior to occupancy w/ landlord
- No charge of rent or increase permitted more than the lawful rent allowed
- Security deposit: cannot demand a security deposit over and above any rent deposit requested; any reference to a security deposit is automatically deemed to be a rent deposit
- Rent deposit: Must pay agreed amount every agreed upon time no more, weekly or monthly; landlord must provide receipts relating to rents if requested by tenant
- Rent increase: Landlord must give 90 days notice and can increase it more than the guideline in accordance with the Act
- Dispute resolution: Landlord and Tenant Board provides info about the Act and resolves them; mediation or a hearing
- End of lease: End of lease, automatically converts to month by month periodic tenancy; termination of lease requires notice w/ reasons and details; length of notice period depends but if tenant and landlord agree then a notice is not required

#### Commercial tenancies act:

- Rent determined by terms of lease agreement
- Security deposit: Negotiable
- Rent deposit: permitted without restriction
- Rent increase: No restrictions
- Dispute resolution: Conflict may be commended at the superior court of justice, or the small claims court branch of the superior court of justice
- End of lease: Landlord can terminate a month to month tenancy with a minimum one month written notice; if lease ends itself, the tenant has no right to occupy it and may pay 2 months rent every month they stay there; landlord can get eviction order

#### **Mod 7 – Lesson 1**

##### National Do Not Call List (DNCL):

- Calling someone who did not ask is telemarketing; cannot contact these people, fine applicable
- If they will cold call, brokerage must register with national DNCL operator, subscribe to them and pay for subscription based services
- Brokerage must also have an internal brokerage list (internal DNCL); those who are contacted and say they don't want shit from the brokerage must be placed on this list; list must have date and time of request, consumer's name and contact info and phone #; list must be kept for 3 years
- Applies to residential consumers not business consumers
- Check that brokerage subscribes to National DNCL, check their policies in calling, use internal DNCL, monitor both lists before calling

Canada's Anti-Spam legislation (CASL); does not apply to twitter/facebook wall posts, websites, blogs, two-way voice communication, faxes+ voice recordings

CEM – electronic message encouraging participation in commercial activity

Requirements for sending a CEM:

- Get consent, express written consent is recommended
- Identify yourself; name, details to business, contact info, valid for at least 60 days
- Means for recipient to withdraw consent
- Non-compliance = \$\$
- Sending unsolicited email promoting a commercial activity violates CASL, you need written or implicit consent first

Express consent:

- Opted in through a sign-up
- Can be oral or writing
- Silence or inaction cannot be construed as providing consent
- Consent obtained through an opt-in mechanism rather than an opt-out; pre-checked box not permitted

Implied consent:

- Based on prior relationship, pre-existing business relationship, made an enquiry within the last 6 months, existing non-business relationship, recipient has published the e-mail online in a business fashion

Consent in case of referral:

- Not required in case of referral if:
- Referral was made by someone with a relationship to the recipient
- Full name of person making referral and a statement that the CEM is being sent because of the referral
- Can only send one CEM

Info required in CEM:

- ID of registrant, registered name; + designation
- ID of brokerage, registered name

CEM guidelines:

Don't use confusing terms likes, sales agent, associate or consultant

Don't include details of property unless consent is obtained of all parties involved (buyer,seller)

Competition Act:

Addresses form of competition, protect consumers

- Misleading Ads

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- Conspiracies: Unlawful agreements between competitors to fix or increase prices, manipulate markets to control output
- Price maintenance: person attempts to influence prices upwardly or by discouraging individuals offering lower prices; also if salesperson refuses to negotiate because a competitor's pricing policy, commission structure, or business model
- Bid-rigging: Agreement in response to call or request for bids, where bidders agree not to submit bids or submit pre-arranged bids, criminal offence

Maintaining compliance with competition act:

- Do not collude, discriminate, mislead

Do not discuss your brokerage's commission structure

## Mod 7 – Lesson 2

Capital gain: Net increase in value of a capital property from date of purchase to the date property is sold; (ex. cottage, investment duplex, land, buildings, shares, bonds, funds, trust units)

- 50% of the net proceeds is added to the income of taxpayer and taxed at the appropriate tax rate

Business income: Income a person earned from an activity undertaken for profit (income from a house painting or consulting business, rental income) excluding salaries received by employer

- Net income after deducting expenses is taxed

Both taxed differently.

Factors considered to distinguish between capital income and business income (if investigated by CRA, addressed by CRA resolution process or the Tax Court of Canada) :

- **Intention** of taxpayer when they purchase property; if they bought it as an investment with intention to resell for a profit, could consider it as business income
- **Relationship to taxpayer's business:** if taxpayer uses expertise acquired in their day-to-day business to generate a profit on the sale or purchase of a similar commodity  
Ex. salesperson buying for themselves and make profit on sale, could be considered business income
- **Frequency of transaction:** how often a taxpayer engages in the sale of capital property; frequency suggest conducting business for profit = business income
- **Nature of transaction and assets:** Taxability as income may be indicated if the asset cannot normally be used personally or for investment purposes; ex. mortgage purchased at huge discount, mortgagee viewed as being in a business that realizes profits, thus invoking business income
- **Objects of the corporation:** IF transaction falls under objects of corporation, and if it is part of usual business activities; may decide sale of real estate for profit is taxable, even if not stated as an objective of the corporation

Salesperson's Obligation:

Property subject to capital gains tax may include:

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- Sale of a single-family home used as a rental property
- Sale of a cottage that is not the seller's principal residence
- Sale of a property that was inherited and temporarily rented but never lived in by the seller
- Sale of a commercial property; whether occupied by the owner or tenanted

#### Principal Residence:

- A house, an apartment in a duplex or apartment building or condominium, a cottage, houseboat, trailer or mobile home, or a share in a co-operative where a person usually lives
- Principal residence generally excluded from taxation, taxes are payable on business and investment income
- Property sold, increase in value is capital gain; if property was only a principal residence, seller does not have to pay tax on the capital gain; if at any time it wasn't principal residence, seller may have to pay proportionate capital gains tax
- To qualify as a principal residence:
  - o Taxpayer must own housing unit
  - o Family unit may only have one principal residence at a time
  - o Land upon which housing sits cannot exceed about 1.24 acres unless they can prove they require more land for personal use and enjoyment
  - o Ordinarily inhabited in the year
  - o Designated as taxpayers principal residence for the year
- For tax, tell em to get professional

#### Impact of the Income Tax Act on the Sale of a Property by a Non-resident:

- Buyer expected to make reasonable inquiry about seller's residency status to protect themselves
- If seller is resident of Canada, buyer's lawyer will ask the seller's lawyer to have the seller sign a **statutory declaration** that they are not a non-resident
- If seller is non-resident, seller may pay the tax liability in advance of the completion of sale; calculated using estimated sale proceeds minus the **property's adjusted cost base** (original price paid for property + legal fees/commissions and capital costs for improvements)
- Once seller files documents and pays taxes, Minister of National revenue issues a **certificate**; if seller gets this before closing, no credit needs to be applied, and because buyer demonstrated reasonable inquiry, no tax liability concern to the buyer; otherwise, seller must give a credit to buyer at closing to cover tax liability
- Funds must be paid by the buyer on the seller's behalf within 10 days following sale completion
- If certificate not received before closing, buyer's lawyer will hold back 25% of sale price to have money to pay the seller's tax liability and protect buyer from being responsible for it
- If buyer does not consider residency status of seller/tax liability of the non-resident seller and pays full purchase price to seller, buyer could become liable for payment of capital gains taxes
- **Residency clause**: in agreement of purchase and sale directed to non-resident seller disposing of Canadian property; tax calculated based on anticipated capital gains payable

#### Mod 7 – Lesson 3

EPA:

Primary environmental legislation impacting ownership and use of real property in Ontario

- Ensure health of environment is protected, risks are assessed, remediation is carried out, citizen participation encouraged

Purpose of this legislation is to prevent pollution and protect environment and human health

Role of Ministry of Environment, conservation and Parks:

- Works to promote clean and safe air, land and water
- Investigate matters concerning pollution, waste management, litter management to protect and conserve the natural environment
- Can search and seizure, enter and search premises, interview individuals, examine documents to ensure that violations of the EPA are dealt with
- Can issue various licenses, permits, certificates of approval for:
  - o Permits relating to private water wells
  - o Approvals concerning herbicide use by cottage owners to control aquatic plant life
  - o Remediation of contaminated lands
  - o Land development and associated sewage works
  - o Haulage of septic waste
  - o Air quality including the control of emissions
  - o Issues approvals to allow businesses to emit a certain amount of pollution (chemical, odours, noise)
- Every person who causes or permits a spill and has control over the contaminant must notify the ministry of environment, conservation and parks and the affected municipality about the spill and must take steps to remedy
- If they refuse to comply with an order, ministry will do it and ask them to pay
- Environmental site assessment may be required

Four ways to minimize risk to env.:

- Be well-informed
- Ensure honesty and fairness in negotiations
- Draft accurate agreements/contracts
- Seek expert advice when necessary

Environmental Site assessment:

- To determine if any environmental contamination (petroleum) and any contamination within the building (such as asbestos)
- Anyone who has or had ownership or possession over a contaminated property and those who caused it can be found liable for civil and regulatory liability (fines/imprisonment)
- If assessment indicates further investigation and possible remediation are needed, this may negatively impact transaction; buyer will require the seller to provide a Phase 3 remediation report indicating the contamination has been remediated according to the ministry guideline + reliance letter in favor of the buyer or buyer's lender

Three Phases in env. Assessments:

Phase 1: Environmental site assessment

- Done by a certified environmental site assessor to identify potential contamination
- Assessor will:
- Visit property for visual evidence
- Reviews background documents, + historical aerial photos and title searches and requests for info from ministry of env. or municipality
- Interviews site personnel, government officials, and third parties
- Finally, reports findings and conclusions
- No lab testing, sample gathering, intrusive investigation, physical analysis is required
- Just determines if reasons exist to believe a property may have a form of contamination

Phase 2: Environmental Site assessment

- Triggered by Phase 1 assessment that raises possibility of contamination
- Attempts to:
- Confirm if env. Problems exists
- Quantify the extent of contamination
- Suggest a remediation plan to resolve the issue
- Requires collecting samples of soil and groundwater by on-site drilling, which are put through physical analysis and lab testing to see if contamination exists and to what extent'
- Reviews and reports results

Phase 3: Environmental site assessment

- Developing an environmental remediation strategy, work plan to carry out
- Remediation of site
- Report to confirm if remediation successful and meets required guidelines
- Once complete, formal report provided; might outline follow-up to monitor for residual contaminants and confirms contaminant removal, treatment, and status of site
- If remediation not feasible, report may include a site-specific risk assessment (SSRA) defining level of contamination and if there is a developable use with restrictions

#### **Mod 7 – Lesson 4**

Provincial Policy Statement under planning act and Greenbelt plan

- Statement of government's policies on land use planning
- Greenbelt plan protect the greenbelt
- Greenbelt plan, oak ridges moraine conservation plan, Niagara escarpment plan work together to determine where urbanization should not take place

Land protected by the Greenbelt plan:

- Oak ridges moraine, the Niagara escarpment, parkway belt west plan area, and the Glenorchy Conservation Area

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- If you have a client, take reasonable steps to determine material facts of property affecting their decision to sell or buy
- If you providing customer service to seller or buyer, disclose material facts related to purchase and sale that you know or ought to know

#### Golden Horseshoe Growth Plan

- Greenbelt is part of Ontario's Greater Golden Horseshoe Growth Plan (Growth plan)
- Growth plan clarifies where and how future urban structural growth should be accommodated to protect future generations
- The greenbelt plan, Niagara escarpment plan, and the oak ridges moraine conservation plan use the provincial policy statement to support economy, environment and social infrastructure
- Take together, these plans specify Ontario's Climate Change Strategy; the gov's commitment to reduce greenhouse gas emissions

#### Impact of greenbelt plan:

- May affect owners looking to develop vacant land or expand properties within the greenbelt plan areas; advise them to seek legal advice

#### Endangered Species Act:

- Extirpated: Exists somewhere in the world and at one time existed in the wild in Ontario but is now extinct in Ontario
- Endangered: Exists in the wild in Ontario but is facing possible extinction or extirpation
- Threatened: Exists in the wild in Ontario and is not endangered, but steps need to be taken to address factors threatening it
- Special concern: Exists in the wild in Ontario and is not endangered or threatened, but biological characteristics and/or identified threats may cause it to become threatened or endangered
- Plants and animals endangered, threatened, or extirpated are automatically protected from harm or harassment + their habitat
- Endangered species act set out: timelines to strategize and plan recovery for at-risk species, tools to help reduce human impact on species and their habitats, tools to promote protection and recovery
- PERMIT required to build a new subdivision or install infrastructure that will affect a newly protected species or habitat, it establishes certain rules depending on:
  - o When project received approval
  - o When work began or will begin
  - o Project's current status
  - o Project type
  - o When a species was classified as threatened or endangered
- Ministry of Natural Resources and Forestry can grant dif. Types of permits for activities otherwise not allowed

#### Mod 7 – Lesson 5

##### Role of Natural Resources Canada (NRCan)

- Help Canadians take advantage of reducing energy costs, emissions, and increasing value of assets

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- Administers Energy Efficiency Act and others
- Energy Efficiency Regulations impact:
  - o Household appliances
  - o Water heaters
  - o Heating and AC equipment
  - o Lighting products
  - o Electronic products
  - o Refrigeration equipment
  - o Other commercial and industrial products

#### Energy-efficient home:

- Well-insulated and air tight with high-efficiency heating and cooling appliances that reduce energy bills
- Furnished with low-flow showers and toilets that lower water usage and heating costs
- Using energy-efficient lighting and appliances that lower energy and electricity consumption, including ones identified by ENERGY STAR program

#### Small changes to make home energy-efficient:

- Use programmable thermostat: To automatically lower temp at night and when home is not in use for several hours
- Seal air leaks: Weatherstripping and caulking
- Replace old bulbs: Use ENERGY STAR certified compact fluorescent lights (CFLs) or light emitting diodes (LEDs)
- Insulate hot and cold water pipes: Insulate first two metres of pipes with foam sleeves
- Upgrade the exhaust fans: Replace existing with ENERGY STAR certified + use timers to reduce power usage
- Use water-saving faucets, showerheads, toilets
- Use power bars that do not consume standby power: with timers or master plugs

#### Green building:

- Promotes energy-efficiency
- Durability in the component products
- Sound environmental planning
- Does everything

#### Rating systems for green building:

- Leadership in Energy and Environmental Design (LEED):
  - o Independent rating system that benchmarks design, construction, and functioning of green buildings run by the Canada Green building Council (CaGBC), a not-for-profit national organization
  - o Provides tools for homeowners to measure and improve energy efficiency of their building
- R-2000: Encourages energy-efficiency and environmentally responsible home construction
  - o Managed by the Office of Energy Efficiency (Natural Resources Canada)

Green building features:

- Ecological considerations (green roofs, retention of existing trees during construction, etc)
- Indoor air quality
- Waste recycling/diversion (organic, grey-water reclamation systems, efficient toilets, etc.)
- Energy efficiency (insulation, smart-window tech, shading and glazing windows, stationary fuel cell use)

EnerGuide, official mark of Gov of Canada to rate and label consumer items; works with Canada's Energy Efficiency Regs and ENERGY STAR

EnerGuide program:

- Administered by Office of Energy Efficiency pursuant to the Energy efficiency act and the energy efficiency regulations
- EnerGuide label must be affixed to all new electrical appliances manufacture or imported into Canada; doesn't mean its energy-efficient but that it has undergone federal standards testing
- EnerGuide for homes: energy rating system (1-100 scale); typically 50-65 w/ R-2000 above 80

ENERGY STAR LABEL to most energy-efficient products; most homes have 68 but minimum for star is 80

Can also have star if qualified under ENERGY STAR and meet specifications and is built by qualified builder

Energy Efficiency Evaluation Report:

For both new and resale home contains:

- Efficiency rating
- Estimated annual energy consumption and costs
- Energy consumption by end use
- Estimated heat loss
- Recommendations for retrofits that will reduce energy use

## **Mod 7 – Lesson 6**

Ontario New Home Warranties Plan Act:

- Governs most new home construction, outlines warrant coverage for new homes and condo's in ON
- Every builder or vendor selling new homes must warrant that it is constructed efficiently, free from defects, in accordance to Ontario Building Code
- Provisions regarding buyer's deposit, delayed closing, substitution of finishes during construction
- The Tarion Warranty Corporation is a not-for-profit corp that administers the Act on behalf of the provincial government; they ensure homeowners receive the warranty coverage; are responsible for ensuring building standards met
- Total coverage capped at \$300,000; max of \$15,000 to warrantied damage involving env. Harmful substances; septic system claims max of \$25,000; Condo common elements for \$50,000 times number of units to max of \$2.5 million; total coverage for condo projects (units + common elements) capped at \$50 million

#### Enrol Home:

- Anyone building or selling new homes must be registered with Tarion (provincial warranty authority that administers the Ontario New Home Warranties Plan Act and regulates the new home building industry)

#### Warranty Coverage:

- Builders and vendors must provide warranty coverage to buyers
- Home eligible for three warranties with specific coverage for one-, two-, and seven-year periods
- Each warranty for a new home or condo unit begins on date of possession, except for the warranty on a condo's common elements, which begins upon registration of condo declaration and description

#### One-year warranty:

- Builder warrants for one year from date of possession that home is free of defects, fit to live in, meets requirements, major structural defects as those in seven-year warranty

#### Two-year warranty:

##### Addresses:

- Water seepage through basement or foundation
- Defects in materials and work so building envelope prevents water penetration
- Defects in materials and work in electrical, plumbing, heating,
- Defects in materials and work resulting in detachment, displacement, deterioration of exterior cladding
- Major structural defects as those in seven-year warranty

#### Seven-year warranty:

- Major structural defects:
- Any defect in materials or work that results in failure of a load-bearing part of the home's structure
- Any defect in materials or work that significantly and adversely affects the buyer's use of the building as a home

#### Salesperson:

- Obtain detailed warranty info from builder or seller
- Ask builder for registration number and home's enrolment number; each condo has an enrolment number for each unit and a number for the common elements
- When a home resells, warranty stays with the home until end of warranty period
- Available on Certificate of completion and possession sticker located on electrical panel and warranty certificate; or contact Tarion

#### Exclusions to Warranty Coverage:

- Temporary or seasonal homes
- Homes built on existing footings/foundations

- Homes that have been lived in or rented out by the builder or the vendor before sale to the first owner
- Existing rental residential buildings converted to and registered as residential condominiums
- Residential properties held for investment purposes by limited partnerships
- Contractor erects the shell, and owner completes interior work
- Generally, homes purchased from a trustee or receiver do not have coverage, but contact Tarion

## **Mod 7 – Lesson 7**

### Ontario Building Code:

- Sets out minimum standards for building design and provisions regarding building safety, fire protection, and structural integrity
- Ontario amended the code to : allow construction of mid-rise wood buildings up to six floors for more affordability; enhance barrier-free requirements for buildings to support accessibility
- The Building and development Branch of the Ministry of Municipal Affairs and Housing administers the code; ministry reviews and amends the code every 5 years

### Common projects requiring a building permit:

- Cannot construct or demolish a building without a permit
- Ex:
  - Finishing previously unfinished spaces, such as family rooms, recreation rooms, or attics
  - Repairing and underpinning of foundations
  - Installation of pools
  - Construction of decks in excess of a specific height above ground
  - Construction of any building in excess of 10 square metres
  - Construction of attached and detached garages
  - Renovation or repair of a building

### Common projects that DO NOT require a building permit:

- Building an uncovered platform or deck where the deck is not attached to a residential building and does not exceed a specified height
- Mounting a skylight in a building that does not exceed three floors
- Re-cladding a building no exceeding 3 floors with non-combustible material
- Installing or replacing appliances
- Adding or replacing installing, furnace, boiler
- Replace windows, doors, roofing
- Repairing and replacing plumbing fixtures

### Ontario Fire Code:

- Safety of occupants in existing buildings through elimination or control of fire hazards, maintenance of life safety systems, establishment of a fire safety plan
- Fire Protection and Prevention Act, allows fire marshal and those appointed by him to enter in emergencies and fire investigations, inspections and related orders, offences, and enforcement, recovery of costs, and employment and labour relations issues

- Fire Code requires:
  - o All buildings occupied/visited have fire alarm systems, smoke and heat detectors, carbon monoxide alarms, sprinkler systems
  - o Safety of occupants
  - o Working smoke alarms on every story, outside of all sleeping areas, single-fam or semi-detached, town homes
  - o Carbon monoxide alarms installed adjacent to each sleeping area of a single-fam dwelling that has a fuel-burning appliance, fireplace or an attached garage; for multi-fam dwelling like a condo or apartment, alarm required adjacent to each sleeping area where unit has a fuel-burning appliance or fireplace, and a common wall or floor with storage garage or service room containing a fuel-burning appliance
  - o Landlord needs to test carbon monoxide alarms every year, and after a change in tenancy; after battery replace (if battery operated) , after any change to electrical circuit (if connected to an electrical circuit)

Ontario Building Code vs Ontario Fire Code:

- Safety requirements are regulated by the Ontario Building Code, a regulation under the Building Code Act, and the Ontario Fire Code, a regulation under the Fire Protection and Prevention Act
- Ontario Building Code applies to construction of new buildings and alterations within existing ones
- Ontario Fire Code regulates fire safety in existing structures
- Part 3 of Building code sets out requirements concerning fire protection, safety like fire resistance, separations and closures, firewalls, and equipment, etc.

Retrofit Requirements:

- When a new regulations is passed, property may require upgrades or retrofits to comply with it
- For single-family home: smoke alarms, outside of bedroom areas and on every level; carbon monoxide alarms, adjacent to each sleeping area on each floor
- Containment: Adequate separation between residential units to protect occupants living in a unit from a fire occurring in the other unit
- Means of egress: Having at least two exists from the unit, such as a door to the staircase and a window easily accessible and large enough for people to climb out
- Fire alarm and detection: Installed on each floor of each unit
- Electrical safety: Satisfactory inspection of electrical wiring; if issues, will be corrected, re-inspect, issue certificate

## **Mod 7 – Lesson 8**

Ontario Electrical Safety Code:

- Installing and maintaining electrical equipment

Enforcement of Ontario Electrical Safety code by the electrical safety authority:

Authority provides inspection services:

- Wiring inspections: Electrical work in all new construction and renovations must be inspected as required

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- General inspections: A visual inspection of a facility or residence by the authority will identify whether any electrical defects need to be corrected
- Inspection certificates: Confirming meet requirements
- Inspection required if:
  - o Before new services can be connected to the local electrical distribution system
  - o After upgrades done to electrical service
  - o Before a customer whose electrical service has been disconnected for six months can be reconnected
  - o Before a power can be reconnected at a property that has experienced a fire
  - o For obtaining insurance on a property

#### Steps for Obtaining a permit:

- Hire a licensed electrical contractor
- Apply for a permit: Needs to be obtained within 48 hours of the start of the electrical work
- Submit a request for inspection: Party conducting electrical work will request for inspection or contact service centre to schedule a review by an Electrical Safety Authority inspector of the work for an existing project; if work does not comply with code, inspector issues a defect notice indicating required corrections
- Obtain a certificate of inspection

#### **Mod 7 – Lesson 9**

##### Compliance with Fuel Storage Tank Regulations:

Role of Technical Standards and Safety Authority (TSSA) – reports to Ministry of Government and Consumer Services:

- Responsible for regulating all aboveground fuel storage tanks (at or above ground level within a building or a secondary containment)
- Underground fuel storage tanks pose a great risk; must be registered with TSSA and inspected or fuel will not be delivered to the tanks
- The regulatory controls under the Technical Standards and Safety Act, 2001, apply to a range of activities including installation, testing, maintenance, repair, removal, replacement, inspection and use of appliances, equipment, components, and accessories where fuel oil is to be used as a fuel
- To register an underground fuel storage tank, a homeowner must submit the Underground Fuel Oil Application Fuel Oil Application Form to TSSA; after approval, the TSSA issues a registration number that the homeowner can provide to the fuel distributor to access fuel supply

##### Requirements for upgrading/disposing of Underground Fuel Storage Tanks

- May corrode over time; TSSA says underground fuel storage tanks must be upgraded with specific leak and spill prevention equipment or be removed; all tanks currently in use most likely will have been upgraded to the required standards; not apply to tanks that have been abandoned and whose location is unknown
- Only a TSSA-registered contractor is allowed to install, repair, and/or remove an underground fuel storage tank; must also be certified as a Petroleum Equipment Mechanic 2 to work on underground fuel storage tanks; homeowner must verify contractor's registration number before hiring

**Questions? Call or Text me @ 647-904-2344**

If leakage occurs:

- Property owner must contact a TSSA-registered fuel oil contractor to help find and stop the leak and clean-up any leaked fuel oil; owner required to call the Spills Action Centre of the Ministry of the Environment, Conservation and Parks

Verify if property has underground fuel storage tank, Provide tips to owner to maintain the tank (if he wants to keep it, advise the owner to contact TSSA to confirm existence of tank, technical specification, details of installation; if property contains a storage tank, draft a clause to say they'll have surrounding soil tested for contamination

Calculations:

- GDS:  
= (monthly housing-related costs + 50% of condominium fees / gross income ) x 100
  - o Freehold purchase does not include common expenses
- Ended at page 87

#### **Value of a house:**

- (Revenue – expenses) = Net operating income
- Net operating income / capitalization rate = Sale Price

Calculations:

- Effective Gross income = Gross income – Vacancy/collection loss
- Net Operating Income = Effective Gross Income – Operating Expenses
- Capitalization Rate = Net Operating Income/Sale Price (sale price rounded to nearest \$1000)
- Income approach (Gross Income Multiplier) = Sale price/Effective Gross Income
- Effective Gross income m

#### **Rental Units:**

Net operating income = Gross income – operating expenses – vacancy – bad debt – property taxes

- Status certificate: legal, contact names, financial statement, finances, reserve fund statements
- If owners choose not to pay the extra assessment fee, a lien will be placed on the unit within a 90 day time frame
- Condos cant be shorter than 6 months and higher owner to tenant ratio is desired
- Gross debt service – lower than 35% for mortgage qualification
  - o Calculated as monthly housing related costs (+ 50% of the condominium fees)/gross monthly pay and \*100
  - o Condominium purchases also include 50% condominium expenses
    - Freehold leases do not