

Robert Laing



# Common Concerns

**D**o the legal and real estate professions have anything in common? From the perspective of the British Columbia Real Estate Association (BCREA), there are more similarities than differences.

For more than 20 years, BCREA and the BC Branch of the Canadian Bar Association (CBA-BC) have held joint copyright on the standard form most critical to a real estate transaction: the Contract of Purchase and Sale. The contract was originally developed by the two organizations through BCREA's Standard Forms Committee and a CBA representative has been a member of that committee since it was created.

There are two reasons this partnership has been so successful.

First, both the legal and real estate professions recognize each other's strengths. Realtors' experience in the market and with clients, matched with lawyers' education and ability to draft legal documents, have resulted in a well-recognized and respected standard form.

Second, both professions are genuinely concerned for the welfare of their clients. A carefully crafted contract ensures buyers and sellers are adequately protected in the transaction. It also creates an atmosphere of certainty, which is important when people are making some of the largest purchases of their lives.

A recent example of our shared concern for real estate consumers is the draft rules of the Law Society of British Columbia's (LSBC) regarding the use of unlicensed staff in real estate transactions.

In 2003 BCREA learned that some law firms used unlicensed assistants to market real estate listings, without disclosing that these individuals were not lawyers.

When BCREA brought this matter to the attention of LSBC in September 2003, we were pleased with the quick action that was taken. LSBC immediately struck a task force to examine the role of lawyers' employees in real estate transactions. The recommendations of this task force were tabled in late January 2004. BCREA was again pleased to see that they closely mirror the restrictions imposed on unlicensed real estate assistants by the Real Estate Council of British Columbia.

***A carefully crafted contract ensures buyers and sellers are adequately protected in the transaction.***

It must be said that some obvious differences exist between us. BCREA has received a clear response from Realtors around the province that they do not consider active soliciting and marketing of real estate listings to be the ordinary course of business for lawyers. The LSBC has been equally clear that it believes this does fall under the practice of law. Despite this difference of opinion, we have agreed to disagree and to carry on with the business at hand.

For example, BCREA and the CBA-BC recently submitted a joint letter to the provincial government regarding a potential licensing exemption under the *Real Estate Act* for accountants. Both organizations believe that the lack of an adequate regulatory scheme for accountants puts consumers at too great a risk.

The two professions also have common interests in protecting BC's Torrens land title system and the rights of property owners. Legislation at the municipal, provincial, and federal levels continually and increasingly erodes the rights of owners with respect to the use of their property, usually without any notice being filed in the Land Title Office and without appropriate compensation and appeal processes.

By combining the efforts of nearly 13,000 Realtors and 10,000 lawyers, we are sure to have an impact on legislative developments. By working in the best interests of real estate consumers and sharing our respective expertise, we accomplish our most basic mission: to serve our clients.

BCREA looks forward to long and productive relationships with the CBA-BC, LSBC, and The Society of Notaries Public of BC. ▲

**Robert Laing** is Executive Officer of BCREA. For 20 years he has served the real estate profession in the roles of lawyer, educator, and liaison to all levels of government, crown corporations, and regulatory bodies. Before joining BCREA, Robert was head of The University of British Columbia's Faculty of Commerce and Business Administration's Real Estate Division, where he focused on developing and delivering pre-licensing and continuing education to the real estate profession.

Voice: 604 742-2787  
 Fax: 604 683-8601  
 rlaing@bcrea.bc.ca  
 www.bcrea.bc.ca