

APRIL 28, 1995

TO ALL REAL ESTATE BROKERS,
AUTHORIZED OFFICIALS AND SALESPERSONS
PROVINCE OF MANITOBA



OUT-OF-PROVINCE ACTIVITIES

The Manitoba Securities Commission occasionally receives information that a Manitoba Registrant is trying to sell real estate located in another jurisdiction (province or state), allegedly in contravention of that jurisdiction's licensing laws. Most commonly, the activities involve cottage property in northwestern Ontario, but on occasion other real estate activities in jurisdictions other than Ontario have been noted. Usually the activity pertains to single properties—as opposed to “subdivision property”, which is regulated under Part VI of The Real Estate Brokers Act (the “Act”).

By way of this circular letter, the Securities Commission is reminding all registrants that their Manitoba registration is valid only within the borders of Manitoba. Engaging in real estate activities in another jurisdiction without proper registration in that other jurisdiction may be illegal, and could result in a prosecution by the authorities in the other jurisdiction. Furthermore, the real estate licensing statutes in most jurisdictions (Manitoba's included) require a person to be registered in the jurisdiction in order to take action to collect a real estate commission.

The Commission expects all Manitoba registrants to respect the licensing laws of other jurisdictions, and the Commission is serving notice that it would not hesitate to take whatever action it considers necessary against a registrant found to be in violation of another jurisdiction's real estate licensing laws.

The Commission is suggesting the following guidelines for Manitoba registrants.

Advertising

Except for subdivision property, an owner of property located outside Manitoba may advertise the property in Manitoba, or engage a Manitoba broker to do the advertising on his/her behalf in Manitoba. However, unless you are registered in the other jurisdiction, you may not solicit the advertising within that other jurisdiction, or run advertisements in newspapers that are published, or on radio or TV stations that are situated, in the other jurisdiction.

Manitoba registrants should be aware that subsection 24(2) of the Act allows them to share commissions with brokers registered in other jurisdictions. It may be that cooperating with a broker in the other jurisdiction is the most practical approach to take in these situations.

Listings

It is quite clear that Manitoba registrants may not solicit listings of property located outside Manitoba, or set up an office in another jurisdiction, without being registered in the other jurisdiction or obtaining the permission of the licensing authorities. If you cooperate in a listing with an out-of-Province broker, under no circumstances should you venture into the other jurisdiction to show the property, or write up or present an offer. In these circumstances, suitable arrangements should be made with the owner, or a broker in the other jurisdiction, to show the property to potential buyers, including buyers that you may have obtained in Manitoba.

Offers to Purchase

Under the licensing laws of most other jurisdictions, it is illegal for a person who is not registered in that jurisdiction, to venture into that jurisdiction to obtain, write up, or present an offer to the owner. If you write up an offer, the form of the offer must meet the requirements of sections 21 and 22 of the Act, because it is an offer obtained by a registrant under the Act, even though it pertains to property located outside Manitoba.

To summarize, a Manitoba registrant may not do any of the following things in another jurisdiction, without being registered in that jurisdiction, or without first having obtained the permission of the foreign licensing authority:

- Advertising: you may not put up a “for sale” sign on the property, or run advertisements in newspapers which are published in the other jurisdiction, or on radio and TV stations in the other jurisdiction;
- Soliciting: you may not solicit listings by letter or telephone or other means from Manitoba, or show the property, or present an offer to the vendor in the other jurisdiction.

Registrants should note that these are general guidelines dealing with questions Commission staff are asked most frequently; they do not encompass all possible out-of-Province real estate activities.

The Manitoba Securities Commission strongly suggests that if registrants have any doubts as to whether a particular activity or involvement with out-of-Province property is legal, it would be in order to contact either your solicitor, or the licensing authority in the other jurisdiction for assistance. The addresses or telephone numbers of the regulatory authorities for most other jurisdictions can be obtained from the Registrar in Manitoba.

The Commission requests that all brokers give a copy of this notice to all salespersons and authorized officials in their employ.

This notice supersedes and replaces the guidelines previously issued by the Commission on this subject on August 12, 1977.

J. W. Storsley
Registrar
The Real Estate Brokers Act