

# Report of the Independent Advisory Group



On Conduct and Practices in the  
Real Estate Industry in British Columbia

# Introductions & Acknowledgements

### IAG Members

- Carolyn Rogers (Chair)
- Audrey T. Ho, Commissioner, British Columbia Securities Commission
- Bruce D. Wolley Q.C., Stikeman Elliot
- Ron Usher, General Counsel, Society of Notaries Public of British Columbia
- Tony Gioventu, Executive Director, Condominium Home Owners' Association
- Howard Kushner, Barrister and Solicitor, Kushner Law Group
- Don Wright, President & CEO, Central 1 Credit Union
- Carol Geurts, Associate Broker, Century 21 Veitch Realty, Creston, BC

*[www.advisorygroupbc.ca](http://www.advisorygroupbc.ca)*

### IAG Mandate

- Invited by the Real Estate Council of BC
- Members appointed by Advisory Group Chair
- Terms of Reference were set by the Advisory Group
- Context
  - Extraordinary market conditions
  - Intense public concern and scrutiny
- Focus was on strengthen the regulatory regime
  - Not whether self regulation should continue
- Focus was on licensee conduct
  - Not housing affordability

# Navigating the Report

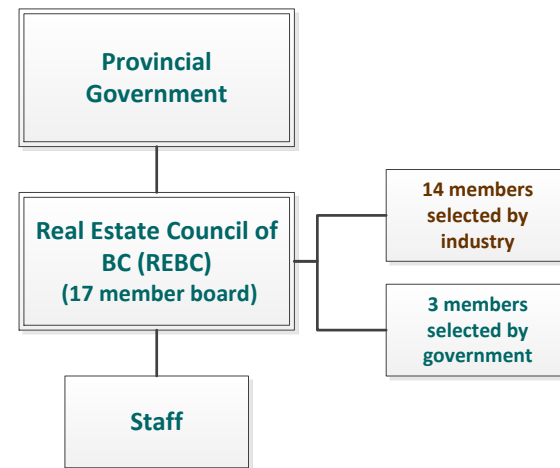
- **5 Parts**
  - 1) Sections I through IV - Background
  - 2) Section V and VI - Current State Facts
  - 3) Section VII - Findings
  - 4) Section VIII - Recommendations
  - 5) Sections IX through XI - Conclusion & Appendices
- Complete Schedule of 28 Recommendation can be found in Section XI, on page 58.
- Commonly used terms: Licensee, Council, Industry

# Navigating the Report

## Real Estate Services Industry



## Real Estate Licensee Regulation



➤ *see page 16 of Report*

# Navigating the Report

*Findings* and *Recommendations* are both organized into **4 Categories**:

- 1) Transparency and Ethics
- 2) Compliance and Consequence
- 3) Industry Structure and Governance
- 4) Public and Licensee Education

# The Recommendations

- **28 primary recommendations;** some with supplementary recommendations
  - 21 directed to the Real Estate Council
  - 7 directed to Government
- **Principle level** – to allow for implementation in a manner that best achieves intended outcomes



# Briefing Format

- *Findings* first, followed by *Recommendations*
- Follow the **4 Categories** in the report:
  - 1) Transparency and Ethics
  - 2) Compliance and Consequence
  - 3) Industry Structure and Governance
  - 4) Public and Licensee Education
- Recommendation followed by **(#)** - corresponds to the report.

### Transparency and Ethics

### Compliance and Consequence

### Industry Structure and Governance

### Public and Licensee Education

## Key Findings

- Guidance and standards for licensee ethics and conduct are dispersed, too general or abstract in some cases, and difficult to navigate for industry & public
- Council's application of existing rules on conduct not consistent enough
- Dual agency is inconsistent with licensee obligations to client
- Conflicts of interest not always clearly disclosed; consumers may be unaware of choices and influences on licensee's advice
- Important consumer information is being provided by industry, not Council

### Transparency and Ethics

### Compliance and Consequence

### Industry Structure and Governance

### Public and Licensee Education

## Key Recommendations

- A single Code of Conduct & Ethics, maintained and enforced by Council (#1)
- Prohibit dual agency (#2)
- Improved rules and oversight to manage potential for conflicts of interest:
  - Improved compensation disclosure (#3)
  - Licensee interest in a transaction must be approved by managing broker (#7)
  - No interest in licensee's own listing (#8)
  - All purchase offers retained at the brokerage (#9)
  - New assignment rules applied to **all** contracts (including where no licensee is involved) (#6)
- Council take a lead role in preparing or monitoring important contracts and disclosure documents (#4, #5)

Transparency  
and Ethics

**Compliance  
and Consequence**

Industry Structure  
and Governance

Public and Licensee  
Education

## Key Findings

- Penalties and sanctions not credible
- Enforcement and sanctions not effectively communicated to the public
- Under-reporting of misconduct - industry and public confusion and culture
- High reliance on complaints to identify misconduct - need to be more proactive
- Council's narrow interpretation of its jurisdiction
- Council's audit program heavily focused on financial compliance versus licensee conduct

Transparency  
and Ethics

**Compliance  
and Consequence**

Industry Structure  
and Governance

Public and Licensee  
Education

## Key Recommendations

- Significant increase in maximum penalties (#16)
  - Individual misconduct from ***\$10,000*** to ***\$250,000***
  - Brokerage Misconduct from ***\$20,000*** to ***\$500,000***
  - Administrative from ***\$1,000*** to ***\$50,000***
- New powers to disgorge proceeds of misconduct (#17)
- Rules to require industry reporting of misconduct that impacts the public, to Council (#11)
- Complaints process be made more transparent and accessible and include confidential reporting channels (#12, #27)
- Council to strengthen new licensee suitability assessments and place greater focus on licensee conduct in audit program (#10, #15)
- Proactive deterrence of aggressive marketing that targets vulnerable consumers (#14)

Transparency  
and Ethics

Compliance  
and Consequence

**Industry Structure  
and Governance**

Public and Licensee  
Education

## Key Findings

- Boards are playing a quasi-regulatory role without a public interest mandate
- Council dominated by elected industry representatives
- New business models resulting in weaker managing broker oversight
- Superintendent powers to oversee Council are narrow and do not enable proactive oversight of Council
- Different regulators for licensed and unlicensed real estate services resulting in inefficiencies and public confusion

Transparency  
and Ethics

Compliance  
and Consequence

**Industry Structure  
and Governance**

Public and Licensee  
Education

## Key Recommendations

- Boards to exit all quasi-regulatory functions related to consumer protection
- Government to restructure Council's governing board to include 50% non-industry members (#19)
- More and stronger requirements on Managing Brokers to oversee the conduct of their licensees (#7, #9, #11, #22, #24)
- Fit and proper standard for broker owners (#23)
- A single regulator for licensed and unlicensed - the Real Estate Council (#20)
- Increase the powers given to the Superintendent of Real Estate to oversee the Council (#21)

Transparency  
and Ethics

Compliance  
and Consequence

Industry Structure  
and Governance

**Public and Licensee  
Education**

## Key Findings

- Council's public profile as the regulator is weak and there is confusion with its role relative to the Boards'
- Division of consumer education responsibilities between Council and Industry not clear or appropriate
- Council's consumer complaint process is not accessible and consumer friendly
- The licensee education bar is too low and lacks adequate focus on ethics and conduct, both at licensing and for continuing education requirements.



Transparency  
and Ethics

Compliance  
and Consequence

Industry Structure  
and Governance

**Public and Licensee  
Education**

## Key Recommendations

- Council must raise its public profile (#28)
- Consumer education describing licensee obligations to consumers should be developed and maintained by Council (#4)
- Council's complaint process be made more accessible and transparent (#27)
- Changes to licensee entry-level education and testing and to continuing education and testing that raise the bar overall, and place more emphasis on ethics and conduct (#25, #26)

# Moving Forward

- IAG report has been submitted to Government and to Council
- Implementation will require time, resources and a high level of cooperation from industry
- There are recommendations that can be acted upon quickly and will have an immediate impact
- IAG regards the report as a first step toward strengthening consumer protection

# Questions

# Report of the Independent Advisory Group



On Conduct and Practices in the  
Real Estate Industry in British Columbia