



Licensed Agent: _____

Unlicensed Assistant: _____

The Licensed Agent and Unlicensed Assistant understand and agree as follows:

Unlicensed Assistant Guidelines per Real Estate Council of British Columbia

Licensee's Assistants

On a regular basis, the Council receives inquiries from licensees as to whether or not they can employ assistants. The answer, of course, is "Yes", but there are restrictions on the activities the assistant may perform depending upon whether or not the assistant is licensed under RESA. As a licensed assistant is considered exactly the same as other licensed individuals, all remuneration for licensed activity must be paid to a licensed assistant by the brokerage and not by the assisted licensee. If a licensee is providing unlicensed assistance to another licensee, e.g., typing, bookkeeping, etc., the licensee performing the unlicensed activity may be paid directly by the assisted licensee for these unlicensed activities. If an unlicensed assistant is employed, this individual may be paid directly by the assisted licensee, however, extreme caution should be exercised to ensure that everyone involved complies with RESA; in particular, an unlicensed person's activities must be confined to those which do not require licensing.

With regard to Trading Services, an unlicensed assistant may:

- answer the telephone, take messages, and forward calls to a licensee;
- schedule appointments for the licensee (this does not include making telephone calls, telemarketing, or performing other activities to solicit business on behalf of the licensee);
- secure public information from a courthouse, municipality, regional district, or other source of public information;
- place or remove signs on property;
- submit listings and changes, as approved by a licensee, to a multiple listing service;
- have keys made for a brokerage's listing;
- unlock a property in order that it may be shown by a licensee;
- draft advertising copy, promotional materials, and correspondence for approval by a licensee (correspondence must be signed by the licensee);
- place advertising;
- prepare and distribute flyers and promotional information under the direction of and with approval by a licensee;
- act as a courier to deliver documents, pick up keys, etc.;
- be in attendance at a property during a licensee tour which is not open to the public so long as the unlicensed assistant does not answer any questions or offer any information beyond what has been provided, in writing, by the seller's brokerage;
- gather feedback from licensees on showings;
- complete contract forms with business and factual information at the direction of and with approval by a licensee;
- witness signatures;
- assemble documents for a closing;
- follow up on a trade in real estate after a contract has been signed by
 - arranging and/or allowing access to property for a property inspector or appraiser, or
 - providing other similar facilitation services that would not otherwise require licensing;
- perform bookkeeping or office functions, including
 - record and deposit trust funds, including transaction deposits, security deposits and rents,
 - compute remuneration cheques and perform bookkeeping activities,
 - monitor licences and personnel files, and
 - office filing; or

- perform other administrative, clerical, and personal activities for which a licence under RESA is not required.

With regard to Trading Services, an unlicensed assistant may not:

- host open houses, kiosks, or home show booths;
- solicit buyers, sellers, landlords, or tenants;
- show property;
- respond to questions from anyone outside the related brokerage about information concerning listings or other contracts, titles, financial documents, closing documents, or other information relating to a transaction;
- explain or interpret a Contract of Purchase and Sale or any form of service agreement (e.g., listing contract) with or to anyone outside the related brokerage;
- negotiate or agree to any commission, commission split, or referral fee on behalf of a licensee;
- present or negotiate an offer or any form of service agreement; or
- perform any other activity for which a licence under RESA is required.

These activities fall within the definition of trading services and require a licence before they may be performed on behalf of others in expectation of remuneration. A licensee who pays an unlicensed assistant to perform these activities breaches [section 6-1](#) of the Council Rules, which prohibits a licensee from paying an unlicensed person who performs real estate services for which a licence is required.

Solicitation of Listings and Conduct of Open Houses

The definition of trading services includes finding real estate for a party to acquire, finding a party to acquire real estate, and showing the real estate. As a result, only licensees may solicit listings and hold open houses.

Licensees handling a volume of listings and facing the heavier traffic of prospective buyers on evenings and weekends are tempted to use unlicensed persons to represent them at open houses. Similarly, there have been occasions where a licensee has sought such help in soliciting listings, notably by telephone.

An unlicensed assistant may be in attendance during a licensee tour, but only if the tour is not open to the public. An unlicensed assistant may not host open houses for the public. Additionally, an unlicensed assistant may not solicit buyers or sellers, by telephone, or in any other manner.

Telemarketing

In some cases, individuals have attempted to establish telemarketing centres for the purpose of contacting members of the public. The individual may wish to set up an appointment for a particular licensee to provide a free market evaluation, gather statistics, or pass on leads to licensees.

The definition of trading services, which includes finding people to acquire real estate and finding real estate to be acquired, results in the need for a real estate licence before conducting such activities. Any attempt to contact the public for the specific purpose of making a referral would fall within the definition of trading services. The attempt to obtain a referral is the primary reason for the telephone call and cannot not be considered incidental to any other business or activity.

However, telemarketing by way of a tape recording can be conducted by an unlicensed person. In this case, a licensee hires an announcer to record information about the licensee's services. Various homes would be called and the tape played over the telephone. There is no opportunity for the person answering the telephone to talk to the caller. Where there is no opportunity for interaction between the caller and the person answering, the activity is considered to be another form of advertising similar to the distribution of personal brochures and flyers delivered door-to-door.

Strata Document Review Services Required To Be Licensed

Licensees should be aware that any person who provides strata document review services is required to be licensed under RESA. Strata document review services include reviewing strata council meeting minutes, general meeting minutes, bylaws, insurance certificates, the "Form B", operating budget, financial statements, strata plans, unit entitlement, parking, limited common property and exclusive use areas, leasing or renting of units, pets, engineering reports, restrictive covenants, etc., and then providing buyers with opinions based on these documents.

The Council and the Office of the Superintendent of Real Estate have reviewed this matter and agree that strata document review services fall within the definition of trading services under RESA. As such, any individuals or companies that offer this kind of service must be licensed with the Real Estate Council.

The Council reminds any current licensees who may be providing this kind of service that all real estate services must be provided in the name of and on behalf of the licensee's related brokerage. It is not permissible to provide any licensed real estate services independent of a licensee's brokerage.

These types of strata document review services, which may have significant value for sellers and buyers of strata lots, require specialized expertise. Licensees intending to provide such services must ensure they are adequately qualified to do so. They should also discuss with their brokerage, in advance, the provision of these services.

Paying and Receiving Referral Fees

Some licensees pay or receive referral fees. Typically, referral fees are paid by a licensee for receiving a "lead" which results in the licensee earning remuneration. A licensee might receive a referral fee for referring a client to another licensee or service provider if that client uses the services of that other person. The following are issues that licensees should be aware of related to the payment or receipt of referral fees.

Paying a referral fee to an unlicensed person

A licensee may pay an unlicensed person a referral fee as long as

- the unlicensed person does not solicit, for the purposes of making a referral, the names of persons who may want to acquire or dispose of real estate;
- the practice of making referrals is not the main business of the unlicensed person making the referral; and
- the unlicensed person making the referral does nothing else that would require them to be licensed (refer to the definition of "real estate services" in [section 1](#) of RESA).

Those who intend to pay a referral fee to an unlicensed person have an obligation to first ensure that person satisfies the above criteria. [Section 6-1](#) of the Council Rules prohibits the payment of any remuneration to an unlicensed person in relation to real estate services if that person is required to be licensed. For this reason, it is important that a brokerage has clear policies, and advises its licensees accordingly, with respect to the payment of referral fees. It may also be useful to obtain independent accounting advice with respect to any tax implications that may be associated with the payment of referral fees to unlicensed persons.

Licensed Agent

Date

Unlicensed Assistant

Date

Managing Broker

Date