

Spilker, Robyn FIN:EX

Subject: Meeting with Lori and Michael Noseworthy of the Office of the Superintendent of Real Estate
Location: Room 153
Start: Mon 2017-08-21 1:00 PM
End: Mon 2017-08-21 2:00 PM
Recurrence: (none)
Organizer: MINCAL, FIN FIN:EX
Categories: Gov

Re: Overview/Dual Agency discussion
YM – Aug 11

From: [Stonnell, Jennifer FIN:EX](#)
To: [Nicholson, Riley FIN:EX](#); [Salling, Tammy L FIN:EX](#)
Subject: FW: Lori W Briefing Requests
Date: Monday, August 14, 2017 4:34:34 PM

FYI

From: Wanamaker, Lori FIN:EX
Sent: Monday, August 14, 2017 4:14 PM
To: Stonnell, Jennifer FIN:EX
Subject: RE: Lori W Briefing Requests
No thanks

From: Stonnell, Jennifer FIN:EX
Sent: Monday, August 14, 2017 2:53 PM
To: Wanamaker, Lori FIN:EX
Subject: FW: Lori W Briefing Requests
Hi Lori – the below MCJ briefings have been scheduled. Please advise if you require pre-briefs for any of them.
Thanks,
Jenn

From: Marquis, Yvette FIN:EX
Sent: Friday, August 11, 2017 4:20 PM
To: Stonnell, Jennifer FIN:EX
Cc: Nicholson, Riley FIN:EX; Spilker, Robyn PREM:EX
Subject: RE: Lori W Briefing Requests

1. Week of Aug 21st – 30 min – 9AM – 9:30AM
Re: FICOMM
Attendees: Lori W, Heather Wood, Tara Richards
2. Week of Aug 21st – 1 hr – 1PM – 2PM
Re: Office of the Superintendent of Real Estate – Overview/Dual Agency discussion
Attendees: Lori W, Michael Noseworthy
3. End of Next week – 30 min – Aug 17 4PM – 4:30PM
Re: MSP Task Force
Attendees: Lori W, Heather Wood, Paul Flanagan
4. Early September – 30 min – Sept 5 11AM – 11:30AM
Re: Revenue Division – Set-offs fines/Student loans/drivers license renewals
Attendees: Lori W, Elan Symes

Thank you!

Anne-Mette

Jennifer Stonnell

A/Director, Executive Operations and Strategic Initiatives | Ministry of Finance
Tel. 250-356-6696 | Email: Jennifer.Stonnell@gov.bc.ca

From: [Stonnell, Jennifer FIN:EX](#)
To: [Brown, Irene FIN:EX](#)
Subject: Material for Monday's Minister's Meeting
Date: Friday, August 18, 2017 2:19:00 PM

Hi Irene,

Is there any material for the MO in advance of Michael's meeting on Monday?

Thanks,

Jennifer Stonnell

A/Director, Executive Operations and Strategic Initiatives | Ministry of Finance

Tel. 250-356-6696 | Email: Jennifer.Stonnell@gov.bc.ca

From: [Brown, Irene FIN:EX](#)
To: [Stonnell, Jennifer FIN:EX](#)
Cc: [Vandall, Jonathan FIN:EX](#); [Noseworthy, Micheal FIN:EX](#)
Subject: BNs for Minister Briefing w/ Superintendent of Real Estate - Monday, Aug 21, 1:00 pm
Date: Saturday, August 19, 2017 3:03:13 PM
Attachments: [OSRE Creation of OSRE Ministerial Briefing Note Aug 2017.pdf](#)
[OSRE New Real Estate Rules Ministerial Briefing Note Aug 2017.pdf](#)
Importance: High

Hello, Jennifer. Further to our email correspondence on Friday, attached are two briefing notes in preparation for the Minister Briefing with Micheal Noseworthy on Monday, August 21, 1:00 pm. Please advise if anything further is required.

Thank you,

Irene Brown

Executive Administrative Assistant

2800 - 555 West Hastings Street | Vancouver, BC | V6B 4N6

Phone: 778.879.2564 | Irene.brown@gov.bc.ca | www.gov.bc.ca/osre

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From: [Stonnell, Jennifer FIN:EX](#)
To: [Marquis, Yvette FIN:EX](#)
Cc: [Nicholson, Riley FIN:EX](#)
Subject: OSRE - 1pm
Date: Monday, August 21, 2017 8:45:00 AM
Attachments: [OSRE Creation of OSRE Ministerial Briefing Note Aug 2017.pdf](#)
[OSRE New Real Estate Rules Ministerial Briefing Note Aug 2017.pdf](#)

Hi Yvette,

Please find attached BNs for today's 1pm meeting.

Thanks,

Jenn

Jennifer Stonnell

A/Director, Executive Operations and Strategic Initiatives | Ministry of Finance

Tel. 250-356-6696 | Email: Jennifer.Stonnell@gov.bc.ca

MINISTRY OF FINANCE
OFFICE OF THE SUPERINTENDENT OF REAL ESTATE
MINISTERIAL BRIEFING

ISSUE: CREATION OF THE OFFICE OF THE SUPERINTENDENT OF REAL ESTATE (OSRE)

ADVICE AND RECOMMENDED RESPONSE:

- In 2016, the government committed to hiring a dedicated Superintendent of Real Estate (Superintendent).
- Amendments to the *Real Estate Services Act* that came into force in September 2016 expanded the powers of the Superintendent to include new rule making authority and more direct oversight of the Real Estate Council of BC.
- The Superintendent is an independent, arm's-length regulator that is responsible for: overseeing the activities of the Real Estate Council; developing real estate licensee conduct rules; administering the real estate development disclosure regime under the *Real Estate Development Marketing Act* and provisions of the *Strata Property Act*; and, investigating and disciplining unlicensed individuals that conduct real estate services.
- A dedicated Superintendent was hired in October 2016; 11 new staff have been recruited since that date, bringing the total number of staff to 15 (of 19 budgeted FTEs).
- Some of the work OSRE has been doing related to the creation of the office, in addition to building its staff capacity and managing the process of setting up the new office apart from the FICOM structure, include:
 - Meeting with and building relationships with the Real Estate Council of BC, Real Estate Institute of BC, UBC, Real Estate Special Compensation Fund, the BC Real Estate Association, Insurance Council of BC, BC Assessment, and other stakeholders, both regulatory and industry
 - Meeting with and / or briefing government and political leaders including opposition, federal, municipal and other agencies
 - Meeting with all regional Real Estate Boards throughout BC to get their feedback and better understand their concerns regarding action on dual agency / developing a code of ethics
 - Presenting / speaking at various industry events and participating in regulator panel discussions to get word out about changes in how real estate is

Contact: Michael Noseworthy
Division: Office of the Superintendent of Real Estate
File Name: OSRE Creation of OSRE Ministerial Briefing Note Aug 2017

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18th August, 2017

**MINISTRY OF FINANCE
OFFICE OF THE SUPERINTENDENT OF REAL ESTATE
MINISTERIAL BRIEFING**

regulated in BC and get feedback from other regulators and industry on best practices and how to best go about implementing future changes

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KEY FACTS:

- The Office of the Superintendent of Real Estate was formed in October 2016.
- There are currently 15 full-time employees; 11 of the office's employees have been hired since October 2016. The office will have 19 full-time employees when fully staffed.

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**MINISTRY OF FINANCE
OFFICE OF THE SUPERINTENDENT OF REAL ESTATE
MINISTERIAL BRIEFING**

BACKGROUND: FEE HISTORY PROFILE

- The office of the Superintendent of Real Estate is designed to be fully industry funded but is temporarily relying on government funding until full remittance of fees from RESA licensees over a 2 year rotation are received beginning in fiscal 2017/18.
- 2016/17 had a surplus of \$293,000 due to savings incurred from delays in hiring remaining OSRE employees and because the office continued to share FICOM office space rather than moving to a new office location. Fiscal 2017/18 was estimated to be underfunded by \$726,492. Due to the reasons mentioned in the first bullet, additional hiring delays and the continued sharing of office space with FICOM, the financial position has moved to a surplus of \$46,843 as of the July 2017 update while 2018/19 remains projected to be fully funded.

FEES:

Fee/Fine Name	Historical Revenue			Forecast
	2014/15 Actuals	2015/16 Actuals	2016/17 Actuals	2017/18 Target
RE Strata Regulation				
Fees & Licenses sub total	74,139	64,921	73,432	74,510
RE Devel Market Act (REDMA)				
Fees & Licenses sub total	507,867	510,199	591,235	574,547
RE Real Estate Act (RESA)				
Fees & Licenses sub total	937,129	790,603	948,596	1,779,867
Other Misc Revenue			1,569	
Total all Revenue	1,519,135	1,365,723	1,614,832	2,428,923

BUDGET:

Budget (\$000)	2016/17 Actuals	2017/18 Budget
Salaries and Benefits	1,0214	2,194
Operating Costs	286	868
Other Expenses	14	7
External Recoveries	1,322	3,068
Total Operating Expenses	-293	-1

1. 2014/15 and 2015/16 budget actuals have not been included as they were part of FICOM prior to 2016.

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**MINISTRY OF FINANCE
OFFICE OF THE SUPERINTENDENT OF REAL ESTATE
MINISTERIAL BRIEFING**

ISSUE: NEW REAL ESTATE RULES

ADVICE AND RECOMMENDED RESPONSE:

- New rules that will restrict dual agency, increase consumer disclosure of licensee remuneration, and enhance consumer education about high risk relationships are being prepared by the Superintendent of Real Estate (Superintendent).
- In March and April, the Superintendent consulted with all 11 real estate boards, the BC Real Estate Association, the Real Estate Council of BC, and a select group of commercial real estate managing brokers on implementing a regulator code of ethics and the potential prohibition of dual agency and double ending.
- The new rules will improve consumer protection by addressing conflicts of interest and relationship structures that can lead to adverse consumer outcomes.
- New rules will be published in draft form for public comment before any final decision is made.

KEY FACTS:

- The Office of the Superintendent of Real Estate (OSRE) has been working with its counterparts at the Real Estate Council of BC (RECBC) and the Ministry of Finance's Financial and Corporate Sector Policy Branch to draft new rules governing the conduct of licensees providing real estate services in the province.
- The proposed rules are close to being finalized and OSRE intends to publish the rules for public comment in the coming weeks. The public comment period will be a minimum of 30 days. It is anticipated that rule changes will take effect in early 2018.
- The new rules address several of the recommendations of the Independent Advisory Group on Real Estate Regulation in BC (IAG) and aim to enhance consumer protection through a number of mandatory changes to licensee conduct and practices. Key rule changes include prohibiting the practice of dual agency, except in remote and underserved locations, and enhancing consumer education and awareness by increasing mandatory licensee disclosures regarding representation and remuneration.

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Contact: Micheal Noseworthy
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**MINISTRY OF FINANCE
OFFICE OF THE SUPERINTENDENT OF REAL ESTATE
MINISTERIAL BRIEFING**

BACKGROUND:

- In total, the IAG made 28 recommendations to address conduct and practices in the real estate industry in BC. OSRE is actively working with RECBC to address these recommendations.
- The Minister of Finance requested the Superintendent to conduct broad consultations before making any rule changes providing for stricter controls over dual agency or double ending.

Additional Details on Proposed Rules

- The proposed Superintendent rules are intended to enhance consumer protections in a number of ways. Among other things, the proposed rules will:
 - Clarify which rules are designated as Administrative Penalties;
 - Enhance disclosures concerning licensee remuneration as a way to address the issue of “double ending” and to provide sellers with a better understanding of licensee financial motivations;
 - Ensure all mandated disclosures to consumers are done in writing;
 - Enhance disclosures to consumers concerning the various relationship options available when working with a licensee, as well as the duties and responsibilities of licensees to consumers;
 - Strengthen consumer protection by creating a new disclosure warning the public of the risks of using the services of a licensee when the licensee is already representing a client in the transaction;
 - Prohibit the practice of limited dual agency, with a narrow exemption established for remote and underserved areas of the province.

Dual Agency

- Dual agency, also known as limited dual agency, occurs when a licensee acts for both a buyer and a seller, or for more than one competing buyers, in a single transaction. The term “limited” is used because a licensee effectively contracts out of some of their obligations owing to one or both parties in the transaction.
- The IAG recommended that dual agency be prohibited because it presents a significant risk to consumers.

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OFFICE OF THE SUPERINTENDENT OF REAL ESTATE
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- Industry generally opposes an absolute prohibition on dual agency and argues it will adversely affect consumer choice and could result in more consumers choosing to forgo licensee representation, leaving one side of the transaction with no representation.
- The IAG noted that it received feedback from licensees in remote regions of the province who petitioned for the practice to be continued to fulfill a legitimate need in areas with few licensees.

Double Ending

- Double ending refers to a licensee receiving both the buyer and seller portion of the commission on a transaction. This occurs most often when a licensee acts for both buyer and seller in limited dual agency but it can also occur when either the buyer or seller is unrepresented by a licensee.
- The IAG did not make a specific recommendation with respect to double ending, but did note that many find the practice “distasteful.”
- Licensees generally have not provided much feedback on double ending. Most feedback received has focused on the contractual arrangement of the commission, which is agreed to by the seller, and most licensees do not see a conflict with double ending as the amount of remuneration paid by the seller does not change.
- Rules that will enhance the transparency of licensee remuneration in listing agreements and that will require a seller’s licensee to provide disclosure of remuneration with every offer are being developed. These will provide sellers with greater information about licensee remuneration at the time of negotiating a listing agreement and will allow sellers to be aware of possible licensee conflicts of interest pertaining to each specific offer that is being reviewed.
- Rules that will require licensees to provide a new disclosure to unrepresented parties for transactions where a licensee is already engaged to another party are also being developed. This will ensure that an unrepresented party is adequately informed that the licensee owes duties to another party to the transaction, and is not representing the interests of the unrepresented party.

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**MINISTRY OF FINANCE
QUESTION AND ANSWERS**

ISSUE: New Real Estate Rules

Question: When will new rules be announced?

Answer:

- New rules are expected to be published in the coming weeks.
- The Office of the Superintendent of Real Estate (OSRE) is taking a measured approach to implementing major rule changes. OSRE is committed to moving forward in a manner that ensures the public is protected and that licensees have adequate time to receive education and adapt business practices to ensure compliance.

Question: Will a rule come into force immediately once published or will there be a delayed implementation period to allow time for licensees to adjust to the changes?

Answer:

- New rules will be published for a minimum 30 day period to allow for public comment.
- A delay from when a rule is published as final and when it comes into force is expected. The Superintendent has not yet determined how long this time period will be but it is anticipated that new rules will come into effect in early 2018.

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