

# TRADING IN REAL ESTATE - JURISDICTION

**Purpose:** This bulletin explains how the Real Estate Council of Alberta determines whether it has jurisdiction over a particular trade in real estate.

**This bulletin applies to all real estate professionals.**

In today's global real estate industry, it is not always clear whether a specific trade in real estate falls under the jurisdiction of the Real Estate Council of Alberta (RECA).

RECA decides its jurisdiction based on a legal test known as the "sufficient connection" test. This test was developed by Canadian courts and applies when a decision maker decides which provincial jurisdiction is the most appropriate to deal with a particular issue.

In Canada, there are limits on the scope of a provincial authority. Provincial regulatory bodies like RECA cannot apply the *Real Estate Act* (Act) to matters not sufficiently connected to the Act. Does a specific trade involving inter-provincial elements constitute a "trade" in real estate under the Act?

Historically, trades in real estate took place between a local buyer and seller. Today, trades in real estate take place across provincial boundaries. The real estate brokerage industry is increasingly becoming national and global in scope.

To determine if there is a sufficient connection, RECA considers all the facts and impact on Alberta consumers. RECA uses these factors to determine whether a trade in real estate has a sufficient connection to Alberta:

- where the property is located
- ordinary residence of the parties to the transaction
- where the real estate professional holds a licence
- where advertisements originate and appear
- how documents are prepared, signed, sent or given to the parties
- where documents are prepared, signed, sent or given to the parties
- where trust deposit is received and who holds it
- where money originates and is delivered to conclude a trade in real estate
- whether or not the person was trading in real estate under the Act

- where a corporation was incorporated and carries out its usual business
- where trading records are kept
- any choice of law clauses adopted by parties in any agreement

Today, the reality is in addition to more traditional trading practices, trading activity takes place in an electronic age. Components of trades might happen in several jurisdictions using internet and faxes. The Act applies to trades in real estate when there is a sufficient connection to Alberta.

### Related Information

#### Legislation

- *Real Estate Act* - sections 1(1)(x), s.17