



MANITOBA

LAW REFORM COMMISSION
COMMISSION DE REFORME DU DROIT

REPORT
ON
PRE-LICENSING EDUCATION FOR
REAL ESTATE AGENTS
IN MANITOBA

Report #13

December 3, 1973

The Manitoba Law Reform Commission was established by "*The Law Reform Commission Act*" in 1970 and began functioning in 1971.

The Commissioners are:

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The subject of this Report is the educational requirements for the licensing of real estate agents in Manitoba. It seems apparent that in most real estate transactions in which an agent is involved, the agent is, in a figurative but effective sense, the architect of the transaction. The agent not infrequently advises both parties, at least informally, as to whether the price is right, or too high. The agent usually advises upon and actually formulates contractual conditions as to mortgage financing, payments, rates of interest, sale of the prospective purchaser's current building or house, trade-ins, swaps, and many other important matters as between vendor and purchaser. The agent, usually acting on behalf of the vendor (but not always) collects and represents for the principal the facts about age of buildings, cost of heating, revenue or other productivity yield, realty taxes, zoning and other municipal regulations and, in a phrase, all information which is needed and cannot be determined by a gross visual inspection of the property.

In Manitoba complaints are often heard about the conduct of real estate agents in completing transactions for the sale of real property. These complaints concern among other things the misrepresentation of certain facts, the failure to reveal pertinent information which could materially affect the sale and claims for commission in dubious situations. In their zeal to complete transactions, important details are often overlooked by some real estate sales persons or skimmed over without due consideration. However just or unjust these complaints may be, they do reflect a general unease about the ethics and competence of those who are licensed to sell real estate in our province, excepting, of course, agents who have built up for themselves a good reputation over years in the business. In real estate brokerage and selling, as in other occupational, professional and business endeavours, those who are incompetent, negligent or unethical generate the conventional wisdom which may stigmatize all who are engaged in the same endeavours. The purpose of this Report is not to reprove, but rather to maintain the good reputation of those real estate agents who merit it, and to upgrade the public confidence in those who are, or would be, seriously dedicated to earning a good reputation for professional competence.

If there be a group of persons who are in a pre-eminent position to discern the need for education and competence on the part of real estate agents it is solicitors who practice in this field. This Commission does not need to conduct exhaustive researches in order to perceive the disparities of standards as between the well trained and self-disciplined agents and those who perpetrate hopelessly misbegotten transactions. From many well known real estate firms one can rightly expect orderly, uneventful transactions every time. From still far too many 'fly-by-night' agents there come sales and dealings which are fraught with emergencies, panics, disappointments and losses which tax the energies, innovativeness, intellect and nerve of the parties and their solicitors. These drains of the lawyers' time and patience are not all that important in themselves, but they provide an index of the prevalence of the problem. The inevitable losers are ordinary people who unwittingly rely on incompetent, but provincially licensed, agents. We cannot precisely quantify the extent of the problem, but we know to a moral certainty from experience and complaints that it exists to an unacceptable degree.

One of the possible causes of this would appear to be that the real estate salesmen and brokers in Manitoba may apply for licences without having taken any formal educational course to enhance their knowledge of the subject of real estate.

"*The Real Estate Brokers Act*" of Manitoba, C.C.S.M. R20, section 8(1) provides as follows:

The board may at any time require a registrant or applicant for registration or temporary registration or renewal of registration, as a broker, authorized official or salesman to sit and pass a written examination set by the board or the registrar or by any other person selected by the board for the purpose, in such subjects as the board may decide.

With this authority the board has prepared brochures which it distributes to applicants for registration as agents and brokers. The applicants are then required to study this brochure and an examination is given on the material contained in the brochure. An applicant who fails on the first attempt may write a second time. A failure on this second attempt may result in the applicant's not being permitted to rewrite the examination for a further period of six months. It is pertinent to note that temporary registrations may be granted to permit any person to act as a real estate agent for a period of three months without his having taken any examination.

This then is the present situation in Manitoba. There is no *formal* education course offered to persons who apply for registration as agents or as brokers.

The Winnipeg Real Estate Board which we understand represents about 90% of the agents who sell real estate in the Winnipeg area has over the years become quite concerned about this lack of education and has accordingly on its own initiative offered education courses to its members and to salesmen employed by brokers who are members of the Winnipeg Real Estate Board. In September of this year they instituted a new regulation requiring that no salesman is to be employed by a broker who is a member of the Board without the salesman first having taken the education course offered by the Winnipeg Real Estate Board. Although this would appear to be a step in the direction of compulsory pre-licensing education, it is, of course, restricted to salesmen who are employed by members of the Winnipeg Real Estate Board. The remainder of salesmen in the Winnipeg area (approximately 10%) and any salesmen who sell real estate outside the Winnipeg area, therefore, have no education course which they are compelled to take before applying for their licence.

In the course of our research we contacted the Brandon Real Estate Board which has advised us that it is appalled at the lack of pre-licensing education requirements in the province and, in this regard, have very recently instituted a new education course which has been taken largely from the Winnipeg Real Estate Board's primary course.

It should also be pointed out that the Extension Division of The University of Manitoba, Department of Management Studies offers some evening courses on subjects relating generally to the sale of real estate. These

courses are not required by any board or association but are merely designed to provide novices and individuals engaged in real estate an opportunity to improve their competence through systematic study and to gain an overall perspective in their development as members of the Real Estate profession.

A perusal of the report of the Public Utilities Board (the government authority which administers "*The Real Estate Brokers Act*") reveals that for the year ending December 31, 1972 there were 1,894 registrations for real estate agents and 542 registrations for brokers. This is a considerable number although it does include renewals of present licences (approximately 23.4% of the registrations for agents are applications of new agents). It is deplorable when one considers that this number of agents have been thrust in the selling field with no compulsory education in real estate matters.

We perceive that there is a great need for compulsory pre-licensing education of all real estate salesmen and brokers in the Province of Manitoba. We assert that it should be a mandatory requirement of the Public Utilities Board that no person be granted a licence until he or she has completed a comprehensive course covering the subjects in which a person entering this field should be knowledgeable.

We are pleased to acknowledge the supportiveness of Mr. Duncan S. Menzies, F.R.I., President of The Winnipeg Real Estate Board, and of C.R. Brown, President of the Brandon Real Estate Board. In discussing the type of course now offered by the Winnipeg Board, Mr. Menzies wrote to us, in part, as follows:

We sincerely believe that it would be in the public interest if all registered real estate salespeople were required to successfully complete a similar type of course before they were granted salesman registration. Other than the Atlantic Provinces all other provinces in Canada require such qualification before becoming licensed.

. . .

Please be assured that if we can be of any assistance to you or any other body to whom this matter is referred, we will be most happy to cooperate to the fullest extent possible.

We suggest that such a course be offered at the Community Colleges level or through the Community Colleges Division of the Department of Colleges and Universities Affairs. In this respect we interviewed Dr. Geoffrey E. Sainty, who is the Director of Instructional Methods Planning of this Department and he too considers that the need for such a course is indeed genuine.

In correspondence with us, Dr. Sainty notes:

Manitoba's community colleges are interested in responding to the needs of both the community and of individuals who have an educational need. We have done some preliminary investigational work to determine if there is an existing need for trained and qualified real estate licensees in Manitoba. There is high interest on the part of real estate firms, potential individual students and some agencies in government in establishing this type of a program.

There appears to be a need for a general real estate course providing information on the pit-falls and intricacies involved with buying and selling property as a pre-orientation and/or upgrading course. At the present time we are led to believe that there is no provincial requirement that real estate salesmen have taken such a program before they are issued a licence.

The concept of formal education and upgrading is in accord with the views of the Public Utilities Board, itself, as its Chairman informs us. With Dr. Sainty's cooperation a steering committee could be set up to study this problem and the feasibility of establishing a course at the Community College level. Lectures could be given at Red River Community College in Winnipeg and perhaps at Assiniboine Community College in Brandon. If the need arose and if there were sufficient interest shown, the Keewatin Community College in The Pas could also offer the course in real estate education.

Because we are of the opinion that the need for pre-licensing education is so great, we recommend that "*The Real Estate Brokers Act*" be amended to provide that the Public Utilities Board accept applications for registration only from the following persons:

- (a) With respect to persons who have not previously been issued licences to act as agents, only those who have successfully completed the course which the Community Colleges propose to offer for agents and have successfully passed such examination(s) as may be required by the Public Utilities Board.
- (b) With respect to persons who have not previously been issued licences to act as brokers, only those who have successfully completed the course which the Community Colleges propose to offer for brokers, and have successfully passed such examination(s) as may be required by the Public Utilities Board.

The object of this recommendation is to ensure that all new applicants for licensing either as sales persons or brokers be required to complete the course successfully before being granted a licence by the Public Utilities Board. We think it could be possible to aim for an effective deadline of December 31, 1974, after which date the public could be assured that all newly licensed agents and brokers will have been educationally qualified as prescribed.

We are unable to formulate any unanimous suggestion as to whether already licensed persons ought to be compelled to undergo upgrading courses and whether some, of long years in the business, might be exempted. We are all agreed, however, that upgrading or refresher courses, or seminars, ought to be made available for continuing education in this field and that all licensees ought to be urged and encouraged to enroll periodically.

Now, this Commission is not constituted so as to be able, itself, to prescribe the course content, and then to establish and actually offer the courses to students within the times suggested. It is obvious that cooperative participation in this endeavour would have to be elicited from the Department of Colleges and Universities Affairs, the Public Utilities Board

and, not least, some practical business group such as the Manitoba Real Estate Association. It may even be found that the deadlines we propose are not reasonably practical. Be that as it may, the need is real and the proposed reform is a practical need of the community.

This is a Report pursuant to Section 5(2) of "The Law Reform Commission Act" dated this 3rd day of December, 1973.



Francis C. Muldoon, Chairman



R. Dale Gibson, Commissioner



C. Myrna Bowman, Commissioner



Robert G. Smethurst, Q.C., Commissioner



Val Werier, Commissioner



Sybil Shack, Commissioner



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