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Course 1

A Study Guide for Ontario Real Estate



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Dear Student,

Congratulations.

You've just begun your real estate journey, a huge decision that could change your life forever.

This program is not easy. It challenges the best of us.

I've seen students get licensed in as little as 2 months and some that never do.

The most important thing is that you've started – that's more than most. The second most important thing is that you don't quit.

Some say these courses are even harder than the job itself, but they don't have to be.

That's why I created these free notes.

To serve you and all other students looking to get licensed in Ontario and to make this journey a little easier.

Inside you'll find summary notes that thousands of students have already used before you, which have since been refined with their feedback.

You can find more free study tools, webinars, and checklists at www.shivarealestatecoach.com.

Thank you again for trusting me to be part of your start in real estate. I hope these notes make your first course feel a little lighter and a lot more possible.

With gratitude,

Shiva Bakshi

These notes are provided for educational purposes only. They are not official materials of RECO, Humber College, or any governing body, and should not be relied upon as legal advice. Always refer to official course materials and legislation for complete and up-to-date information.

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Module 1

Lesson 1: TRESA Overview

TRESA (Trust in Real Estate Services Act, 2002, as amended) provides the framework for the regulation of real estate in Ontario. Its goal is to protect consumers and uphold the integrity of transactions.

Key points about TRESA

- Administered by RECO (Real Estate Council of Ontario) on behalf of the provincial government.
- Enforced by RECO, which interprets the legislation and suggests modifications when needed.
- Mission of RECO is to support a fair, safe, and informed real estate market in Ontario.

Registrants

Any individual or brokerage registered under TRESA to trade in real estate. There are three categories:

1. **Brokerage:** Must designate a broker as the Broker of Record. Can be a corporation, partnership, or sole proprietorship that trades for profit. Brokers and salespersons are employed by the brokerage.
2. **Broker:** Registered as a broker and employed by a brokerage to trade.
3. **Salesperson:** Registered as a salesperson and employed by a brokerage to trade.

Broker of Record: Responsible for day-to-day management, compliance with TRESA, and providing support to salespersons and brokers.

Important- Any agreement with a seller or buyer is always with the brokerage, not the individual salesperson. A salesperson signs on behalf of the brokerage.

RECO's Roles under TRESA

RECO has several responsibilities, including:

- Enforcing registration, education, and insurance standards.
- Addressing complaints and concerns involving brokerages, brokers, or salespersons, and taking action when required.
- Conducting brokerage inspections to ensure compliance.
- Protecting consumers and maintaining public trust.

Standards of Practice

Under TRESA, registrants must follow standards of practice that continue many principles from the old Code of Ethics:

- Fairness and Honesty
- Conscientious and Competent Service
- Full Disclosure of Material Facts
- Promoting the Client's Best Interests
- Advising clients to seek outside information or expertise if beyond the registrant's scope

Note: Under TRESA, there are no more 'customers'. Anyone receiving services under a brokerage agreement must be a client. Non-clients are now referred to as Self-Represented Parties (SRPs). Registrants cannot provide services or advice to an SRP, only general information that benefits their client.

Trading in Real Estate

Trading includes any activity that furthers the purchase, sale, exchange, option, lease, or rental of property.

1.2 Becoming a Salesperson

Steps to Become a Salesperson Under TRESA

1. Complete education requirements.
2. Register with RECO once employed by a brokerage (must apply within 12 months).
3. Purchase insurance through the RECO Insurance Program (policy begins in September each year).
4. Complete post-registration education within the initial 2-year registration cycle to renew.
5. Renew registration every 2 years.

Pre-registration Learning Path

- 5 courses
- In-person simulation sessions
- Review sessions
- Exams (Course 1 through 4, with simulations in Courses 2 and 3)

1.3 Skills for Success

Skills needed to succeed as a salesperson include:

- Planning and goal setting
- Discipline and confidence
- Being tech-savvy
- Strong interpersonal and communication skills

1.4 Real Estate Markets and Career Opportunities

Types of Real Estate Markets

- **Seller's Market:** Demand exceeds supply. More offers, higher prices, properties sell quickly.
- **Buyer's Market:** Supply exceeds demand. Longer listing times, more negotiation, falling prices.
- **Balanced Market:** Supply and demand are relatively equal.

Career Opportunities in Real Estate

- **Residential resale:** Work with buyers and sellers, irregular hours, often emotional transactions.
- **New home sales:** Focused on qualifying buyers and closing purchases with builders.
- **Residential condominiums:** Must understand condominium corporations, fees, and rules.
- **Rural, recreational, and agricultural properties:** Requires knowledge of wells, septic systems, and unique regulations.
- **Commercial:** Retail, office, industrial, and investment properties.
- **Leasing and property management:** Working with tenants and landlords.

1.5 Earnings and Expenses

Earnings and Timing

- **Residential transactions:** Commission is usually paid weeks or months after the agreement is completed.
- **Commercial transactions:** May take several months or even years to close.

Expenses

- **Initial:** Application review fee, salesperson registration fee, RECO insurance, startup costs (website, signage, business cards).
- **Ongoing:** Registration renewals, annual RECO insurance, marketing, office, and transportation.

It is important to manage finances carefully, create a budget, set realistic earning goals, and keep business and personal expenses separate.

Module 2

2.1 Understanding Real Estate Regulations

Real Estate is a regulated profession. To engage in trading, you must be a salesperson. This includes activities like:

- Writing a weekly blog about real estate
- Providing advice to secure future listings

Brokerage Types

Brokerage:

- **Listing brokerage:** When a brokerage has listed a property for sale
- **Cooperating brokerage:** Works with the buyer
- **Leasing:** Renting or possession of property rather than ownership
- **Landlord:** Also known as lessor, grants lease
- **Lessee:** Also known as tenant, leases property

Brokerage Representation

A brokerage can represent or provide services.

Representation Types (Brokerages)

- **Brokerages representation:**
 - The brokerage and all its agents collectively represent the client and have access to confidential information
- **Designated representation**
 - Between the client and the brokerage (but only the designated representative represents the client)
 - Only a select number of agents are the **designated representatives**
 - The other agents must treat the client objectively and impartially
 - *The designated representatives must not share confidential client info with anyone else inside or outside the brokerage*
- Brokerage decide which representation they prefer to engage in, one or both

Representation:

- No customer relationships
- Any buyer or seller receiving services under a brokerage agreement must be a client and receive representation.
- New term: “self-represented party”

- Representation
 - **Client**
 - Any buyer or seller receiving services under a representation agreement with the brokerage
 - Includes services and representation
 - **Self-represented party (SRP)**
 - Not a client of the brokerage, not under any agreement, and not receiving services
 - The customer category is eliminated – all non-clients are now SRPs
 - Is a party in the trade, but not represented
 - *General tips*
 - You will only encounter a self-represented party when you are already representing a buyer or seller in the trade
 - Agents **cannot provide services, opinions, or advice** and should not encourage a self-represented party to rely on their knowledge
 - Agents can provide **assistance** to the self-represented party if it benefits the agent's client in the trade
 - You can provide assistance as long as it benefits your client & does not share opinion or advice to the self-represented party
 - *** Customer service is now prohibited*

TRESA Update: Self-Represented Party (SRP)

- Customers: Eliminated; non-clients are SRPs
- No advice: Services to SRPs are limited to general information benefiting your client
- Disclosure: Provide and explain the SRP disclosure; recommend independent professional advice
- Communication: You may show property and convey offers, but cannot draft clauses or strategize for an SRP
- Fairness: Treat SRPs with fairness and honesty while promoting your client's best interests

Agreements

- **Representation agreement:** Brokerage represents seller or buyer; must be written before an offer is made
- **Designated representation agreement:**
 - Name of each designated representative
 - The services provided
 - The fact that representation will be provided by the designated representative
 - Additional requirements:

- Duties of both brokerage and designated representative (to protect the clients best interests)
- **RECO Information Guide:**
 - Provide at the earliest opportunity, before giving services
 - Explain options (representation vs SRP), duties owed, and remuneration
 - Obtain acknowledgment of receipt and retain with your records
- **Listing Agreement:** When working with a seller
- **Buyer Representation Agreement:** When working with a buyer
- **Agreement of purchase and sale:** Used to negotiate terms; must be legible with copies for both parties
- **Commission Agreement:** Paid for services; can be a percentage, fixed amount, or both

Scope of Ownership

Types of Properties

- **Real Estate:** tangible aspects
- **Real Property:** Tangible and Intangible aspects that add value; property rights = bundle of rights
- **Personal property:** Movable; consumer goods; appliances, drapes, etc.; can be part of negotiation
 - **Fixtures:** Type of personal property; usually permanent and included in purchase
 - **Chattels:** personal property; mobile; any chattel to remain should be identified on purchase and sale agreement; default excluded from purchase
- **Title:** Legal ownership of land + rights
- **Title Searching:** Locating, organizing pertinent facts about documents and other related materials registered on title
- **Evidence of Ownership:** Document used to show transfer of ownership or title or interest in real property; Transfer/Deed of Land
- **Completion Date/Closing Date:** Transfer of ownership between buyer and seller is completed; specified on purchase and sale agreement
- **Mortgage:** Claim upon property given by owner to the lender as security for money borrowed; registered on title in Land Registry Office; must be repaid in full when property sold; once repaid, a document is registered on title that discharges the mortgage off title
- Mortgage is used under the Registry Act; when title is registered under the Land Titles Act, it is a “charge”
- **Charge/Mortgage of Land:** Document used to register the claim against a property
- **Discharge of Charge/Mortgage:** Document used to remove the claim against property
- Mortgagee: Lender under Registry Act; Chargee under Land Titles Act
- **Mortgagor:** Borrower under Registry Act; Changer under Land Titles Act
- Borrower gives mortgage, lender gives financing

- **Residential Structures:** Detached vs Attached homes

Detached Homes

- **Bungalow:** One floor, older neighbourhoods and older couples; ranch style bungalow offers more living space + garage
- **Bi-level/Split Entrance:** More effective use of lower basement areas; split level between upper and lower areas, basement is raised above grade, more windows, sunlight, access, and ventilation
- **One and One-Half Storey:** 60% of living area on first floor, more cost-effective than bungalow as more square footage on same building coverage, high pitched roof, dormers (attic)
- **Two-Storey:** Popular, no upper angled ceilings
- **Split-Level:** Side-split, from left to right layout; back-split, front to rear; multiple levels of living

Attached Homes

- Share walls, reduces building cost; more housing on plots of land; aging Ontario population seeks smaller quarters
- **Semi-Detached:** One wall attached, side-by-side, located on separately deemed lots
- **Townhouse (Row House):** Three or more units joined by party walls; full basement, main and upper level; developers attracted because of ability to create more housing on the land as there is no additional yard space when they're attached; can be located on their own or part of a condominium complex where unit owner owns structure and shares land as a common element with other unit owners
- **Linked Dwelling:** Two or more single-family homes attached, yet placement attached portion of home is not always evident; many are attached below grade by a concrete wall, or above grade using garage walls; closer to property line than others in similar neighbourhoods
- **Multi-Unit Residential Dwellings:** Duplex, triplex, fourplex; more than one dwelling unit in a single building; divided vertically or horizontally into two attached dwelling units on a single lot; separate or shared entrance

Commercial Properties

- **Office:** Free-standing small offices and retail operations to low- and high-rise office complexes; office parks with attractive suites are found in suburban areas on 1 or 2 floor buildings with landscaped areas; targeted to professional tenants.
- **Retail:** All service-based stores, outlets, malls, stand-alone, groupings, medical, food, etc.
- **Mixed-use:** Combines office, retail, and/or residential; involves 3 or more significant revenue-producing uses and must be viewed as stand-alone destinations.

- **Multi-unit:** Any residential structure with more than one dwelling unit; includes larger rental properties attractive to investors; low, mid, and high rise.
- **Industrial:** Three types:
 - **General purpose:** Wide range of operations possible.
 - **Special purpose:** Limited potential use, like manufacturing plants or distribution centers.
 - **Single purpose:** Specific use; little or no potential for conversion to other purposes.
- **Agricultural:** Significant in provincial economics; large scale farm operations require special purpose buildings for livestock & crops.

2.2 Real Estate Regulation

- **TRESA:** Regulates the real estate profession in Ontario; RECO administers TRESA on behalf of the provincial government.
- **Provincial Oversight:** The provincial government oversees real estate governance in Ontario; responsible for TRESA.
- **Ministry of Government and Consumer Services:** Responsible for TRESA and general oversight of RECO; ensures legislation remains relevant over years of change.

RECO Overview

- **Delegation:** Administers and enforces TRESA; supports a fair, safe, informed real estate market for consumers.
- **Structure:** Self-managed, not-for-profit corporation; prioritizes consumer interests and professionalism.
- **Activities:** Supports RECO's mandate of protecting public interest:
 - Enforce standards for registration.
 - Establish education standards (pre, post, renew).
 - Conduct inspections of brokerages for TRESA compliance.
 - Address inquiries and complaints.
 - Provide insurance.
 - Source of consumer protection, education, and information in real estate.
 - 12-member Board of Directors; includes 9 elected members and 3 non-registrant members appointed by the ministry.
 - CEO manages day-to-day operations; registrar carries out duties under TRESA.

Organized Real Estate

Organized Real Estate is a voluntary membership consisting of local boards, provincial and territorial associations, and the Canadian Real Estate Association (CREA). Ontario's provincial association is the Ontario Real Estate Association (OREA).

- **CREA:** National organization with offices in Ottawa; focuses on national and international representation of the real estate industry; owners of trademarks REALTOR and MLS in Canada, operates Realtor.ca.
- **OREA:** Represents brokers and salespersons who are members of the province's real estate boards; functions include:
 - Maintain a strong provincial lobbying voice for REALTORS.
 - Provide downloadable forms and clauses.
 - Offer savings programs.
 - Inform members of industry news.
- **Local Real Estate Boards:** Represent local areas or regions; salespersons become members of CREA & OREA and can call themselves REALTORS; provide local services like access to the Multiple Listing Service (MLS) and local market info and data reports.

CREA:

- Liaises with national organizations, such as Canadian Construction Association and Urban Development Institute.
- Founded in 1943 to provide a national voice for all real estate salespersons.
- MLS has grown since its inception in the 1950s, providing listing info to members.
- Realtor.ca offers consumer access to selected property information and serves as an advertising vehicle for REALTORS across Canada.

OREA:

- Provides a lobbying voice, including efforts against municipal land transfer tax.
- Any real estate professional joining an Ontario real estate board automatically becomes a member of CREA & OREA.

Real Estate Boards:

- Non-profit corporation benefiting its members.
- Each region has several local boards; members pay dues to affiliate with the board; TREB is the largest.
- Authorized by CREA to use certain trademarks.

Real Estate Institute of Canada (REIC):

- Not-for-profit organization focused on advanced education.
- Offers designations like Fellow of the Real Estate Institute (FRI).
- Provides certifications such as Certified Property Manager (CPM) and Accredited Residential Manager (ARM).

Certified Commercial Investment Member (CCIM) Institute:

- Offers education programs and services for professionals; awards CCIM designation for completing graduate-level courses.

Society of Industrial and Office REALTORS (SIOR):

- Leading international organization for commercial and industrial practitioners.
- Maintains high standards in the industry.

2.3

Broker of Record:

- Brokerage must designate a broker of record, who must be a registered broker with RECO.
- Must ensure compliance with Acts and regulations for all salespersons.
- Actively participates in management and supervision within the brokerage.
- A brokerage with multiple locations must register the main office and branch offices under supervision.
- A branch office with two or more registrants requires management by a broker or salesperson registered for at least two years.

Branch Manager:

- Provides supervision for those employed in the branch.
- Takes action for failures to comply with Acts or regulations.
- Manages all records related to the branch.
- A branch with one broker or salesperson only needs supervision from the broker of record at the head office.

Listing Salesperson:

- Inspects property and recommends price range based on market analysis.
- Designs marketing strategy for the property.
- Recommends changes to homes for sale for better showing.
- Assists seller's lawyer in preparing for closing.
- Provides after-sale assistance as needed.

Module 3

Property Ownership Types

Buyer's salesperson:

- Determine buyer's home desires, arrange showings, estimate value
- Ensure appropriate financials
- Present agreement of purchase and sale and negotiate agreement with seller or seller's representative

3.1 Ownerships and Interests

Types of estates (an estate is an interest in land with various rights associated with ownership/tenancy):

- **Fee Simple:** Owns property; has all rights associated with this ownership.
- **Leasehold:** Right to use and occupy property for a specific amount of time.

Property Interests

- **Air Rights:** Rights to use space above the physical surface of land, typically for construction.
- **Surface Rights:** Rights to land excluding mineral rights; identified through a title search.
- **Riparian Rights:** Rights for waterfront property owners related to water access and use.
- **Mineral Rights:** Rights to enter or use land for mineral extraction.

Types of Concurrent Ownership

Concurrent ownership occurs when 2 or more persons hold ownership of the same property simultaneously:

- **Joint Tenancy:** Surviving tenants acquire the whole interest upon death; includes rights of survivorship.
- **Tenants in Common:** No rights of survivorship; interest treated as an asset of the deceased's estate.

For Joint Tenancy to exist, four conditions (unities) must be present:

- **Title:** Must be the same and created at the same time in the same document for all owners.
- **Time:** Interests must be created at the same time for the same period.
- **Possession:** Each owner must have equal, undivided ownership of the property.
- **Interest:** Each joint tenant must have an undivided share of the property simultaneously.

Condominium: Ownership includes fee simple ownership of the unit and tenant in common ownership of common elements (halls, elevators, etc.).

A common elements condominium (CEC): Consists only of common elements; owners pay maintenance fees and have ownership interest in their property and undivided interest in common elements.

Ownership Alternatives

- **Co-operative:** Property owned by a corporation; members occupy specific units.
- **Equity Co-operative:** Corporation owns land and buildings; members are shareholders.
- **Non-profit Co-operative:** Provides housing for members without ownership interest; members pay rent.
- **Fractional Ownership:** Shared ownership allowing individuals to partially own an asset.

Property Ownership Types

Co-ownership: 2 or more persons own property jointly; tenants in common ownership alternative, which deed outlines proportionate interest in property held by each owner.

- **Land lease:** Leasing of land only; rights to use the land for a limited time.
- **Life lease:** Interest in property in exchange for a lump sum payment; lasts until the leaseholder's life or decision to move.
- **Timeshare:** Division of property rights into fractional interests based on time.
- **Fee ownership interest:** Buyer purchases an actual deed interest in property for a specific period each year.
- **Right to use interest:** Buyer purchases the right to use a unit but does not own the property.

Timeshare Requirements

- **Written agreement:** Timeshare agreement must be in writing.
- **Cooling off period:** Consumer may cancel without reason within 10 days of receiving the written agreement.
- **One-year cancellation:** Can cancel within one year if the agreement copy is not received or does not meet requirements.

Mobile Home Parks

Definition: Designed to be mobile, serving as a permanent residence.

- **Land use:** Land on which one or more mobile homes are located, including rental units and facilities.
- **Residential Tenancies Act:** Covered by provisions of the Residential Tenancies Act, 2006.
- **Purchase agreement:** Must identify dwelling specifics, including manufacturer, model, and site location.

Houseboats

- **Residential:** Vessels are perpetually harbored and thus static.
- **Recreational:** Vessels have residential furnishings and engines for propulsion.
- **Dockage rights:** Must have right of dockage and access to utility hookups.

Six Defining Characteristics of Easements

- **Specific use:** Easements are granted for a special purpose.
- **Dominant and servient tenements:** Easements must comprise both types.
- **Dominant tenement:** Estate that benefits from an easement over a servient tenement.
- **Servient tenement:** Land over which an easement exists in favor of a dominant tenement.
- **Separate ownership:** Dominant and servient tenement properties cannot be owned by the same person.

Easements Overview

- Easements must solely benefit the dominant tenement.
- Easements run with the land; once granted, they bind subsequent owners.
- Dominant and servient tenements do not have to be adjoining.

For example, to get access to a lake, House 1 has a right of way over House 2. Thus, House 1 is the dominant tenement, while House 2 is the servient tenement. House 2 cannot construct anything on that portion of the property due to this easement.

Easement Creation

- **Express Grant:** Owner grants a privilege in favor of another owner.
- **Prescription:** Continuous, exclusive, and open use of land without consent but with the owner's knowledge. (ex. A neighbour has used your backyard lake access for years, with your knowledge, but without your explicit consent.)
- **Implication:** Created to avoid detrimental effects to an adjoining property owner.
- **Statute:** Minister may grant easements in public lands without requiring a dominant tenement. (ex. A utility company holds an easement on a property to access sewage pipes)

Easement Termination

- **Merge:** Ownership of both dominant and servient tenements merge.
- **Release:** Dominant tenement can release the servient tenement by removing the easement.
- **Ceasing of Purpose:** If the purpose of the easement disappears, so does the easement.

Types of Easements

- **Right-of-Way:** Allows passage through another's land for maintenance and repairs.
- **Party Wall:** Agreement between owners of adjoining parcels regarding shared walls.
- **Mutual Shared Driveway:** Joint driveway used by adjoining neighbors.

Private Restrictions

- **Restrictive Covenant:** Contractual arrangement that restricts property use, transferable to subsequent owners.
- **Encroachment:** Violation of property rights by building on a neighbor's property, often unintentional.
- **Adverse Possession:** Possession of property without consent for 10 years, visible and continuous.
- **Profit-à-Prendre:** Right to enter another's property and take resources like crops or minerals.

Government Limitations on Property Ownership

Expropriation: Involves acquisition of private property by government for the public's best interest and use with fair compensation to the owner. The government exercises the right of eminent domain.

Right to Regulate (Police Power): The right of government to regulate property for the promotion of public safety, health, morals, and general welfare. Examples include:

- Zoning bylaws
- Building codes
- Traffic regulations

Right to Levy Taxes: The right of government to levy taxes on property, such as real property tax, land transfer tax.

Escheat: Reversion of property to government or government agency if the property owner dies, leaving no will and having no legally qualified heir to whom the property may pass.

Module 4

Overview

This module explains how land ownership is recorded and guaranteed in Ontario. This can be confusing, so here's a quick summary of the big picture:

- **Two systems existed:**
 - Registry System – the older method. Ownership was recorded but not fully guaranteed, so it carried risk.
 - Land Titles System – the newer system. Ownership is backed by the government, providing stronger protection.
- **The Conversion Project:**
 - Ontario moved properties from the Registry System into the Land Titles System through a massive administrative conversion.
 - Some properties came in as Land Titles Absolute (LTA) – title fully guaranteed.
 - Others came in as Land Titles Conversion Qualified (LTCQ) – still protected, but with certain “qualifiers” (old rights like adverse possession might survive).
- **First Applications vs. Conversion:**
 - A First Application was a detailed process to bring one parcel into Land Titles Absolute.
 - The Conversion Project was large-scale, moving thousands of parcels automatically into LTCQ.

TLDR:

This module gives you the foundation to understand how property rights are officially recorded, how Ontario modernized its system, and why qualifiers like LTA, LTCQ, or Absolute Plus matter when buying, selling, or developing real estate.

4.1 Land Measurement and Surveys

Origins of Land Measurement:

- In 1620, Edmund Gunter designed Gunter's Chain in England.
- Ontario was initially surveyed using the chain and link method.
- Plots of land were known as concessions and further divided into lots.
 - 1 link = 0.66 feet
 - 1 chain = 66 feet = 100 links

- 80 chains = 1 mile
- 1 concession = 100 chains = 1 ¼ mile

Divisions of Land in Ontario:

In 1792, Governor Simcoe divided Ontario into counties following a river, lake, or straight line through the bush; then divided into smaller parcels referred to as “townships.”

- Townships were square but topography made them rectangular or irregular due to natural boundaries.
- Townships were divided into strips of land called concessions, numbered in Roman numerals beginning with I.
- Each concession was separated by a “road allowance.” Road allowance was not always a road but remained public property.
- Each concession further divided into lots running at right angles to concessions and numbered in Arabic numerals from 1.
- Lots were sometimes divided by a road allowance (usually every 5th lot) or by a lot line.
- A “parcel of land” could then be described as the entirety of the lot and concession.
 - Example: Lot 5 in Concession III, in the Township of Anytownship, in the County of Anycounty.

Types of townships:

- **Single front township:** Oldest; Found on banks of navigable lakes and rivers; 20 chains by 100 chains and contained 200 acres; standard road allowance was one chain wide (66 feet).
- **Double front township:** Lots to be 30 chains (1980 feet) by 66.67 chains (4400 feet); patented or given legal identity, in half-lots containing 100 acres.
- **Sectional system township:** 1000-acre sections; lots were 20 chains by 50 chains with 100 acres.

Initially, a 200-acre farm was identified by lot and concession. As the population grew, smaller divisions of land became necessary, often based on dimensions without precise directions. This led to the creation of metes and bounds descriptions.

Metes and Bounds

This older system of written land was developed when irregular land parcels were carved out of concession lots. Key features include:

- **Commencement Point:** Start and end at a reference point.
- **Boundary Lines:** Referenced according to compass directions (bearings) and distances.

Example: North 20 degrees west for a distance of 300 feet, fully enclosing the property. All references must relate to the northerly bearing.

Surveys

A survey is the determination of boundaries of a piece of land, identifying:

- Land and locations of structures
- Distances to lot lines
- Encroachments, easements, or right-of-way

The Surveys Act refers to surveying as “cadastral surveying”, a technical term for comprehensive recording of land and property bounds.

Four Components of Surveys

- **Research:** Relevant data obtained by the surveyor before visiting the site.
- **Measurement:** Accurate assessment of land dimensions.
- **Monumentation:** Location of physical markers at property corners.
- **Plan/Report:** Documentation of findings and boundaries.

Four Types of Surveys (Refer to Appendix)

- **Surveyor's Real Property Report:** The most commonly used report, including both a plan of survey and a written report.
 - Part 1: Plan of Survey - Full survey of property; full monumentation not required.
 - Part 2: The Written Report - Shows everything affecting title or enjoyment of property.
 - Must list the following information:
 - Municipal Address (regarding land titles or registry office designations)
 - Dimensions and bearing of all property boundaries determined by field survey.
 - Designation of adjacent properties, roads, lands, etc.
 - Location and description of notable improvements
 - Location of easements, encroachments, or survey monuments
 - A preparation note for whom the plan is prepared
 - Certification by an Ontario land surveyor

- **Reference Plan:** Describes multiple interests in land, officially submitted in a land registry office. Buildings may or may not be shown. All changes to land require a reference plan to be deposited.
 - Required for:
 - Severance: Of an existing parcel of land as formal consent.
 - First Application: Under the Land Titles Act.
 - Clarity Request: When title is too vague or complex.
- **Plan of Survey:** Visual depiction of property without written report or certification; useful for homeowners.
- **Plan of Subdivision:** Detailed survey indicating lots, blocks, and roads for future neighborhood development.
 - Features:
 - Parcel Independence: Each parcel can be bought and sold independently within the same plan.
 - Registration: Plans are assigned numbers at the land registry office.
 - Geographic Identity: A registered plan creates a new identity for the land.

Example:

- Property previously described as Part of Lot 2, Concession III, Township of Anytownship, County of Anycounty.
- Upon registration, legal identity changes to Lot Plan 99M-165, County of Anycounty.

The Acts

- **Surveys Act:** Sets requirements for establishing survey items, lines, boundaries, and corners.
- **Surveyors Act:** Governs the association of Ontario Land Surveyors, including ethics and standards.

Legal Land Descriptions

Legal land descriptions are confirmed with source documents like deeds or surveys. If unavailable, secondary documents can be used.

Legal land description: Unique identifier for each parcel, consisting of three parts:

- Locational Reference: Descriptors like lot number, plan number, or section reference.
- Encumbrances: Restrictions like easements included in the legal description.

- Municipality/Registry Office: Example: Lot 27, Plan 58M-1234; Encumbrance: S/T LT 123456; Municipality: City of Anycity.

Abbreviations

- **LT:** Lot
- **S/T:** Subject to
- **PL:** Plan
- **PT:** Part
- **T/W:** Together with
- **PCL:** Parcel

4.2 Land Titles System

Overview

Registry Act (Old System)

- Administrative role: Registry officials only *record* documents; they do not verify ownership or guarantee title.
- Property records: Organized geographically (e.g., by township).
- Abstract books: Show the history of a property, arranged by lot and concession.
- Subdivision plans: Over time, legal descriptions shifted from lot/concession references to plan numbers.
- Searching lots: To find ownership, you would consult the abstract book for the relevant lot.
- Crown Patent: Original grant from the Crown forms the root of title.

Land Titles Act (New System)

- Government guarantee: Title is certified and guaranteed by the province.
- Registrar's role: Acts as the sole, reliable source of title information for purchasers.

Key difference: Unlike Registry, Land Titles does not just record - it verifies and guarantees ownership.

Land Title Principles:

- **Mirror principle:** Register of title accurately reflects the current facts material to a person's title.

- **Curtain principle:** The register is the sole source of information for proposed buyers, excluding trusts and equities behind this curtain.
- **Insurance principle:** The mirror principle provides an absolute reflection of title; if errors exist, the affected person is treated as if the title were correct.

Additional Notes:

- Only existing and valid interests remain on the registrar; others are deleted.
- All land registered by a plan of subdivision and condominiums under the Condominium Act must be registered under this act.
- Land registered under the Registry Act can be converted to Land Titles through a “first application” process, known as administrative conversion.
- All land title entries are assigned parcel numbers, with separate records kept for each unit of ownership.

Land Titles System Features

The land titles system is a method of government registration that guarantees title and operates the registration process, with certain limitations:

- **Transaction Registration:** All transactions must be registered against the title in the provincially operated land titles office; mere instruments executed by parties are not valid against competing registered interests.
- **Certificate of Title:** Provides a complete and accurate reflection of preceding transactions affecting property.
- **Assurance Fund:** Compensation is provided for those who suffer loss due to errors or omissions of the registrar.
- **No Adverse Possession:** No title to land registered under the act can be acquired through possession or prescription.
- **Parcel Recording:** Each parcel of land is recorded as a unit of property in the land titles office; the land is surveyed.
- **Land Registry Office:** Officially referred to as the Land Registry Office for the Land Titles Division, overseen by a land registrar.
- **Land Titles Assurance Fund:**
 - Persons deprived of ownership through errors or fraud are entitled to compensation, provided it cannot be obtained from other sources.

- To apply for compensation, contact the Director of Titles; the amount will be determined by him, and this is not to be confused with title insurance (Insurance for owners and lenders).

Land is registered under either the Registry Act or the Land Titles Act, but never both.

E-Registration

E-Registration refers to documents being created, submitted, and maintained in electronic form.

Key points include:

- **Access:** Those with access to the Teraview/POLARIS system may register documents electronically from their offices or use a kiosk.
- **Limitations:** Not all documents can be registered electronically; for example, Crown grants and complex documents must be registered using paper-based methods.
- **Initiation:** E-Registration is initiated by means of dockets and messaging.
- **Document Preparation:** Registration documents prepared by one lawyer can be forwarded securely to another user through the Teraview gateway software.

E- Registration Process:

- A seller's lawyer creates a Transfer/Deed of Land and sends a message to the buyer's lawyer allowing access to the document
- The buyer's lawyer adds buyer info and performs other steps in document preparation process
- Once completed by both lawyers, ready for e-signatures (two are required; completeness and release; completeness signature validates the accuracy of statements made and release signature confirms the document is ready for registration)

What is POLARIS?

POLARIS (Province of Ontario Land Registration and Information System) is a mapping and property detail database of the Ontario government. It features:

- Automated land registration system based on title index and property mapping databases
- Parcel-based registration, unlike traditional land titles systems
- Centralized electronic data, reducing search times and eliminating manual abstracting

Finding Properties

Users can find property by "individual parcel" using:

- Address

- Owner's name
- PIN (Property Identification Number)

If the first two are unknown, the PIN can be quickly located through block and property index maps:

- **Block Index Map:** Large tracts of land within communities are organized in blocks. Users can find the general location of property using block index maps.
- **Property Index Map:** Users view the property index map for the appropriate property, which is a detailed expansion of individual blocks from the block index map.
- **PIN:** Assigned when properties are converted to land titles and automated under the POLARIS system.

Example:

- Block #: 00114
- Property #: 0051
- PIN: 00114-0051 (Combination of both)

Searching within POLARIS

Teraview and GeoWarehouse allow users to search parcel records by entering one of the following:

- Unique 9-digit PIN
- Municipal address
- Name
- Registered instrument number
- Map
- Condominium plan
- Plan of subdivision

Overview of Teraview

Teraview is a software package providing an electronic gateway to automated property records in Ontario, including the POLARIS land registration system. Key features include:

- A search process that accounts for all claims outstanding during the 40-year search period and establishes ownership.
- At least 10 years of ownership or the last three deeds are searched, whichever is greater.
- Interests and claims recorded on the parcel index for the 40-year search period are carried forward to the automated parcel register.

Search Facilitation

Teraview facilitates searches by accessing three different databases:

- **Title index database:**
 - Replaces abstract indexes and parcel registers found in traditional paper-based land registry office; database is automatically updated as new documents are registered.
- **Property index database:**
 - Visual indexing maps to locate properties; updated with registration.
- **Image database:**
 - Plans/images of all active instruments in title index database; updated with registration; images from paper transferred online.

Teranet's Role

Teranet is responsible for the implementation, operation, and enhancement of POLARIS. They built “OnLand,” a web portal to deliver key statutory services related to land and property ownership, allowing searches from anywhere by anyone.

Land Titles Conversion Project

Ontario converted old Registry records into the Land Titles System to allow electronic registration (e-registration).

- **Parcelization:** Each property is identified by ownership and given a parcel number, which is now the central reference for title details.
- **Process:**
 - No applications, surveys, notices, or hearings are required from owners.
 - Boundaries are not fixed during conversion (similar to first registration).
 - Errors & Protection: If mistakes occur, owners are compensated through the Land Titles Assurance Fund.
 - Qualifications: Titles may carry qualifications, so legal advice is recommended.

Land Titles Converted Qualified vs. Land Titles Absolute

Ontario used to have two land registration systems:

1. **Registry System:** Old system, weak protection, lots of risk.
2. **Land Titles System:** New system, government-guaranteed ownership.

To modernize, Ontario undertook the Land Titles Conversion Project. Properties were moved from the Registry into Land Titles. There were two ways properties got in:

1. LTA (Land Titles Absolute)

- Created by “first application” to Land Titles.

- Government guarantees ownership, subject only to listed qualifiers.
- Adverse possession and prescriptive rights not possible once in Absolute.
- About 35% of the land in the registry system was converted into the land titles system using the LTA system.

2. LTCQ (Land Titles Conversion Qualified)

- Created by administrative conversion from the old Registry system.
- Title is “qualified” - still subject to certain pre-existing rights (adverse possession, prescription, misdescription, boundary issues).
- Certification by the Ministry of Government and Consumer Services, with claims insured under the Land Titles Assurance Fund.
- Must be upgraded to Absolute Plus for subdivision/condo registration.
- If serious boundary or ownership problems are found, the parcel remains in the automated system as Registry until resolved.
- The remaining 65% of land was brought into the land titles system through the LTCQ system.

Example:

- If a neighbor had fenced off part of your yard for 15 years before conversion, that claim might survive under LTCQ, but not under LTA.

When you buy property, your lawyer will check whether the parcel is LTA or LTCQ.

TLDR

- LTA → You have the strongest form of ownership, free from hidden historical claims.
- LTCQ → It’s still safe, but you could face an old issue (boundary dispute, adverse possession claim, etc.) that existed before conversion.

Forms Used for Land Registration

The Land Registration Reform Act sets out five standard documents that can be e-registered.

- **Form 1: Transfer/Deed of Land**
 - Used to register a deed (transfer ownership) under Registry or Land Titles.
 - Includes full names of sellers (transferors), buyers (transferees), birthdays, and anyone with an interest.
 - Must be registered with a Land Transfer Tax Affidavit (required under the Land Transfer Tax Act).

- The Land Registrar collects the tax unless the buyer chooses to pay it directly to the Ministry of Finance.
- **Form 2: Charge/Mortgage of Land**
 - Used to register a mortgage under Registry or Land Titles.
 - Records financing details for the property.
- **Form 3: Discharge of Charge/Mortgage of Land**
 - Used when a mortgage has been paid off in full.
 - Executed by the lender (mortgagee) and given to the borrower (mortgagor).
 - Registered as proof that the mortgage claim has been removed.
 - A fee is charged; sometimes owners forget to register the discharge even after paying off the loan.
- **Form 4: Document General**
 - A blank, standardized form for documents that are not transfers, charges, or discharges.
 - Examples: registering a lien or a power of attorney.
- **Form 5: Schedule**
 - Used as an attachment to any of the other forms.
 - Provides extra space for details.

Module 5

5.1 TRESA Basics

History of REBBA/TRESA

- Before REBBA, there were no province-wide Standards of Practice — only CREA members were bound by CREA rules.
- In 1997, RECO introduced standards of practice that applied to all registrants.
- Today, REBBA has been replaced by TRESA (Trust in Real Estate Services Act, 2002, as amended).
- TRESA consists of the statute (the Act) plus five regulations, three of which directly affect registrants.
- RECO administers and enforces TRESA on behalf of the Ontario government.

Three Regulations Directly Impacting Registrants

- **O. Reg. 567/05 – General:** registration, trust money, brokerage structure, and management.
- **O. Reg. 579/05 – Other:** education requirements, insurance, records.
- **O. Reg. 580/05 – Standards of Practice** (formerly Code of Ethics).

Additional Delegated Authority Regulations

- **O. Reg. 568/05** – Delegates regulation-making authority to the Minister.
- **O. Reg. 581/05** – Delegates regulation-making authority to the RECO Board.
- Other consumer-protection regulations also apply (e.g., commission-related rules).

Impact of TRESA (formerly REBBA) on Salespersons

- The Act has eight parts; four are most relevant here:
 - **Part III: Prohibitions Re: Practice** – restrictions and exemptions for trading.
 - **Part IV: Registration** – rules for brokerage and salesperson registration.
 - **Part V: Complaints, Inspection, Discipline** – complaint handling and enforcement.
 - **Part VI: Conduct and Offences** – regulates conduct, including interactions with buyers/sellers.

Standards of Practice (formerly Code of Ethics)

- Sets minimum standards for registrants when trading in real estate.
- Protects the public interest and ensures professionalism.

Consequences of Non-Compliance

- Discipline Committee may impose strict penalties:
 - Order to complete additional education.
 - Fines or cost payments.
- All discipline decisions are published on RECO's website for at least 60 months.

Trading in Real Estate:

What is "Trading"?

Trading includes any activity that involves or supports real estate transactions:

- **Direct transactions:** Buying, selling, exchanging, leasing, or renting real estate
- **Supporting activities:** Listing, showing, marketing, arranging leases, or any activity that furthers a real estate deal

Examples: Listing properties, conducting showings, marketing homes, arranging commercial leases

Who Must Be Registered?

All must be registered under TRESA:

- Brokerages
- Brokers
- Salespersons

Important: Brokers and salespersons can only be registered if they are employed by a registered brokerage.

Unregistered Assistants

Registered agents can employ unregistered people to help with trading activities, but with strict limitations:

PERMITTED Activities (under supervision):

- Assist at listings (take photos, measure rooms)

- Set up listing files and create marketing materials using data from the salesperson
- Witness signatures from buyers or sellers
- Schedule property showing appointments
- Draft offers based on specific directions from a broker/salesperson
- Distribute listing information (flyers, basic property details)

PROHIBITED Activities:

- Participate actively in listing or offer presentations
- Give advice or explain changes to agreements
- Receive or acknowledge legal notices on behalf of parties
- Show properties to buyers independently
- Explain or negotiate offers
- Host open houses
- Conduct prospecting (cold calls, door knocking)

Who is EXEMPT from Registration?

Certain people can trade in real estate without registration:

- Auctioneers auctioning property
- Full-time employees of home builders working on-site
- Lawyers settling estates and selling property
- Financial institutions disposing of properties under mortgage defaults
- Property owners selling their own homes
- Property managers leasing apartments for landlords

Note: Trading in vacation rentals and commercial leases typically requires registration (exemption only applies to residential tenancy arrangements)

Registration Notification Requirements

- Salespersons must receive written notification of their registration before they can start trading
- Once approved, registration begins immediately

- Electronic copy available through MyRECO Certificate mobile app
- Both brokerage and salesperson must be registered at the time services are provided to claim any commission or payment

Would you like me to continue with the next section, or would you like to refine this one further?

5.3 RECO Conduct

Broker of Record Requirements

- **Every brokerage must designate a broker of record** and notify the Registrar in writing
- **Change notifications:** If the broker of record changes, the brokerage must notify the Registrar **within 5 days**
- **Sole proprietorships:** The owner of the brokerage automatically serves as the broker of record

Roles and Responsibilities

(Note: The original text mentions "Roles" but doesn't specify - this would need to be filled in from other course materials)

Registration Considerations

The Registrar evaluates several key factors when reviewing registration applications or renewals:

1. Financial Position

Key requirements:

- Applicants cannot be corporations (must be individuals)
- Must demonstrate adequate financial responsibility

Required disclosures include:

- Unpaid judgments or outstanding debts
- Bankruptcy or consumer proposals
- Personal insolvency proceedings
- Any involvement in bankruptcy or insolvency as a party

"Interested persons" defined as:

- Anyone with financial interest in the applicant's business
- Anyone exercising direct or indirect control over the applicant
- Anyone providing financing to the applicant
- No formal ownership position required - any association makes them an "interested party"

2. Past Conduct

- Any previous behavior that gives reasonable grounds to believe the applicant will not conduct business responsibly
- Registrar reviews conduct history to assess future reliability

3. Truthfulness and Disclosure

- Must provide complete and accurate information on all applications
- Non-disclosure of required information may result in registration refusal
- False statements on applications are grounds for denial

Registrar's Authority

If the Registrar determines an applicant doesn't meet requirements, they may:

- Refuse to register the applicant
- Suspend or revoke an existing registration
- Refuse to renew a registration

Conditional Registration

The Registrar may approve registration with specific conditions, such as:

- **Financial monitoring:** Quarterly reports showing debt reduction progress
- **Role restrictions:** Prohibiting someone with discharged bankruptcy from serving as officer, director, partner, or broker of record for a specified period
- **Legal updates:** Requiring those with criminal charges to update RECO on court dates, charge dispositions, and sentencing documents

Due Process

- Applicants receive written notification before any refusal, suspension, or new conditions are imposed

- This ensures transparency and allows for response or appeal where appropriate

Would you like me to continue with the next section?

Complaints Process

- Anyone can file a complaint if they've been impacted by a registrant's actions

Initial Complaint Handling

RECO's process

- Notifies the registrant with details necessary for a full response to allegations
- May request additional information from the salesperson (must be provided within specified timeframe)
- Keeps broker of record informed - they receive copies of complaints against employees, all communications, and final outcomes

Important limitations

- RECO can discipline but cannot provide financial compensation
- No action taken if complaint is outside RECO's jurisdiction or lacks supporting evidence

Progressive Discipline Approach

RECO recognizes that some infractions are honest mistakes, but repeated violations indicate a pattern:

Example progression

- **1st offense:** Warning + requirement to correct the problem
- **2nd offense:** Warning + educational course (e.g., RECO advertising workshop)
- **3rd offense:** Discipline hearing with potential fines for both salesperson and broker of record

Complaint Resolution Procedures

1. Acknowledgment and Undertaking

- Registrant acknowledges non-compliant behavior and promises not to repeat it
- *Example:* Registrant commits to following all advertising guidelines

2. Voluntary Conditions

- Applied with registrant's consent on a case-by-case basis
- *Example:* Registrant agrees to submit all advertising to RECO for 3-month review period

3. Educational Meetings

- RECO requests meeting to discuss complaint and provide guidance
- *Example:* Meeting to review disclosure requirements for buyer interactions

4. Mediation

- RECO facilitates resolution between parties

5. Written Warnings

- Formal warning that continued conduct will result in further action

6. Mandatory Education

- Requirement to complete additional educational courses

For Serious Complaints:

1. Immediate Suspension

- Used when consumer protection requires immediate action

2. Registrar Proposal

- Issued when: Registrant violates TRESA or Regulations
- Contents: Identifies proposed action (revocation, suspension, etc.) and reasons
- Appeal rights: 15 days to appeal to License Appeal Tribunal
- Default: If no appeal filed, RECO proceeds with proposed action

3. Director's Investigation

- Director may appoint investigators with authority to:
 - Obtain search warrants
 - Issue freeze orders

4. Provincial Prosecution

- Legal prosecution resulting in fines or imprisonment

5. Law Enforcement Referral

- When criminal activity is suspected, matter referred to appropriate law enforcement agency

Brokerage Inspections

- Ensure compliance with TRESA
- Address complaints
- Verify registrant remains entitled to registration

Inspection Authority

- Conducted during reasonable business hours
- Full access required - inspectors must be provided access to all relevant materials

Discipline and Appeals Process

- Referral trigger: Potential Code of Ethics violations
- Panel composition: 3 or more Discipline Committee members
- Authority: Determine if infractions occurred and impose penalties

Appeals Process

- Right to appeal: Registrants may appeal Discipline Committee decisions
- Appeal body: Appeals Committee
- Support: RECO provides necessary information for the appeal process

Looking at this content from Module 5, I can see it covers several key areas. Let me rewrite these sections to make them clearer and better organized:

Trust Account Management

Trust Account Requirements

- **Mandatory:** All brokerages must establish and maintain a real estate trust account
- **Purpose:** Hold money received in trust for others in connection with real estate trades
- **Separation:** Trust funds must be kept completely separate from brokerage's own money
- **Authority:** Only the broker of record can authorize transactions and sign cheques
- **Responsibility:** Broker of record must complete monthly bank reconciliations to prevent shortfalls

- Protection: Deposits are safeguarded and insured through RECO's insurance program

Deposit and Disbursement Rules

Timing requirements

- Deposits: Must be made within 5 business days of receipt
- Disbursements: Must occur as soon as possible after transaction closes

Disbursement process

- Brokerage must receive confirmation from seller's lawyer that transaction has closed
- Funds can then be disbursed to pay commissions owed

If transaction fails to close, funds can only be released by:

- Mutual agreement: Seller and buyer sign mutual release directing disbursement
- Court order: If parties cannot agree on disbursement

Interest on Trust Funds

- Agreement of purchase and sale must clearly outline:
 - How interest is calculated
 - Who receives the earned interest
 - All terms related to interest payments

Receiving Buyer Deposits

Acceptable forms:

- Personal cheque, money order, or bank draft
- Certified cheque (may be required to ensure funds availability)
- Amount must match exactly what's specified in the purchase agreement

Co-operating brokerage responsibilities:

- If deposit directed to another brokerage (e.g., listing brokerage), obtain receipt
- Buyer's salesperson must ensure buyer understands deposit obligations
- Provide deposit to holder without delay

Employment and Commission Rules

- Single employment only: Registrants cannot work for two brokerages simultaneously

Commission Structure

- Fixed amount, percentage of sale/rental price, or combination of both
- Tiered percentages: Rates may decrease as price increases

Example calculation

- Commission: 5% on first \$300,000, then 4% on balance
- Sale price: \$650,000
- Calculation: $(\$300,000 \times 5\%) + (\$350,000 \times 4\%) = \$15,000 + \$14,000 = \$29,000$ total

Default rates

- Prevailing rate: Used when no commission agreed upon
- Based on rates commonly charged for similar services in the marketplace

Prohibited commission structures

- Cannot base commission on difference between listing price and selling price

Registrant Personal Transactions

Types of Interest

Direct interest: Registrant is the actual buyer or seller

Indirect interest: Registrant benefits from transaction beyond normal commission, including:

- Relative (parent, child) is buyer/seller
- Registrant/relative is shareholder in purchasing/selling corporation
- Registrant/relative has hidden role (e.g., acting as lender/mortgagee)

Disclosure Requirements

Required notice must include:

- Statement identifying person as registered salesperson/broker/brokerage
- Full disclosure of all known facts that may affect property value
- Details of any third-party negotiations for subsequent sale
- Information about any payments to be received beyond standard representation agreement

Process requirements:

1. Identify direct or indirect interest exists

2. Provide written disclosure before any offer
3. Obtain written acknowledgment from all other parties before presenting offer
4. Separate document: Cannot be included in purchase agreement

Advertising Compliance

Prohibited Advertising Practices

- **Misleading statements:** Create wrong impressions
- **False statements:** Factually incorrect information
- **Deceptive statements:** Purposefully misleading content
- **Inaccurate representations:** True but vague/incomplete statements

Required Identification

All advertising must clearly show

- **Registrant name:** Legal/trade name registered with RECO
- **Individual names:** Must match exactly how registered with RECO
- **Brokerage identification:** Must be clearly identified
- **Correct titles:** Use proper registration status descriptions

Prohibited terms: "Sales agent," "sales associate," "sales consultant" (too confusing)

High-Risk Advertising Areas

- Comparative rankings ("#1 in town")
- Business volume claims ("100+ transactions last year")
- Savings promises ("\$1,000 cash back")
- Awards and honors ("President's Award")

Best Practices for Compliance

Comparative claims

Disclose basis, source, and details of comparison

Volume/trading statements Include:

- How claim was determined

- Time period involved
- Identity of person/brokerage referenced
- Team size (if team claim)

Commission/savings claims: Disclose all conditions where rates apply or don't apply

Awards/honors: Include source, date, and note if shared with others

Enforcement Actions

RECO may:

- Order immediate cessation of false advertising
- Require retraction or correction with equal prominence
- Require pre-approval of advertising for up to one year

Potential penalties: Suspension, revocation, fines, compensation orders

Material Facts and Professional Conduct Required for conscientious service

Must disclose material facts to clients

Common material facts include:

- Structural issues (roof leaks, mechanical/electrical problems, water seepage)
- Environmental hazards (asbestos, lead, mold, former grow-op use)
- Property measurements and lot size
- Property tax information

Professional Standards

Core principles:

- Honesty and integrity in all dealings
- Act in client's best interests
- Make informed decisions possible
- Provide full disclosure to clients
- Demonstrate reasonable knowledge and competence

- Treat all parties with fairness

Would you like me to continue with any other sections or refine these further?

5.5 Trust Account and Employment Rules

Brokerage Trust Account Requirements

Mandatory setup

- All brokerages must establish and maintain a real estate trust account
- Used to deposit all money received by the brokerage in trust for others in connection with real estate trades

Key management rules

- Trust deposits must be kept completely separate from brokerage's own money
- Only the broker of record can authorize transactions and sign cheques
- Broker of record is responsible for all deposits and must complete monthly bank reconciliations to ensure no shortfall in funds
- Deposits are safeguarded and insured via the RECO insurance program

Trust Account Deposits and Disbursements

Deposit timeline

- Must deposit funds within 5 business days of receipt

Disbursement process

- Must disburse funds as soon as possible after transaction completion
- Brokerage must be advised by seller's lawyer that transaction has closed before disbursing commission payments

When transactions fail to close

Funds may only be disbursed through:

- **Mutual agreement:** Seller and buyer sign mutual release directing disbursement, OR
- **Court order:** If seller and buyer cannot agree on disbursement

Interest on trust funds

- Agreement of purchase and sale must clearly outline:

- How interest is calculated and earned
- Who receives the earned interest
- All terms related to interest payments

Receiving Buyer Deposits

Acceptable deposit forms

- Personal cheque, money order, or bank draft
- Certified cheque (may be required to ensure funds availability)
- Amount must exactly match what's specified in the agreement of purchase and sale

Co-operating brokerage procedures

- If deposit is directed to another brokerage (e.g., listing brokerage), obtain receipt from that brokerage
- Buyer's salesperson must ensure buyer understands their deposit obligations
- Provide deposit to deposit holder without delay

Employment Restrictions

- Single employment rule: Registrants cannot be employed by two brokerages simultaneously

Commission Structure and Restrictions

How commissions are calculated

- Fixed amount, percentage of sale/rental price, or combination of both
- Percentages may decrease as sale price increases (tiered structure)

Example calculation

- Commission structure: 5% on first \$300,000, then 4% on remaining balance
- Sale price: \$650,000
- Calculation: $(\$300,000 \times 5\%) + (\$350,000 \times 4\%) = \$15,000 + \$14,000 = \$29,000$ total

Default commission rates

- **Prevailing rate:** Used when no commission is agreed upon between parties
- Based on rates commonly charged for similar services in that marketplace

Prohibited commission structures

- Cannot base commission on the difference between listing price and selling price

Types of Personal Interest

Direct interest: Registrant is the actual buyer or seller

Indirect interest: Registrant gains benefit beyond normal commission, including:

- Relative (parent, child) is the buyer or seller
- Registrant or relative is shareholder in corporation or partner in partnership that is buying/selling
- Registrant or relative has hidden role (e.g., acting as lender/mortgagee)

Disclosure Requirements for Personal Transactions

Required written notice must include

- Statement identifying person as registered salesperson, broker, or brokerage
- Full disclosure of all known facts that may affect property value
- Details of any third-party negotiations for subsequent sale of property
- Information about any payments to be received beyond standard representation agreement

Process requirements

1. Identify direct or indirect interest exists
2. Provide written disclosure before any offer is made
3. Obtain written acknowledgment from all other parties prior to presenting offer

Important rules:

- Disclosure must be separate document (cannot be included in purchase agreement)
- Must retain copy of written acknowledgment before presenting any offer

TRESA Update: Self-Represented Parties (SRP)

Major change from REBBA:

- Customer relationships are eliminated - all non-clients are now Self-Represented Parties (SRPs)

Rules for dealing with SRPs:

- Cannot provide services or advice to SRPs

- May only provide general information if it benefits your client
- Must provide SRP disclosure forms
- Must recommend they seek independent legal/financial advice

Advertising Compliance Under TRESA Prohibited Advertising Practices

Types of violations

- **Misleading statements:** Cause readers to have wrong impressions
- **False statements:** Factually incorrect information
- **Deceptive statements:** Purposefully misleading content that causes confusion
- **Inaccurate representations:** True but vague or incomplete statements

Enforcement Actions for False Advertising RECO may:

- Order immediate cessation of false advertising
- Order retraction or correction with equal prominence to original advertisement
- Order both cessation and correction
- Require pre-approval of registrant's advertising for up to one year

Potential penalties

- Registration suspension or revocation
- Criminal charges
- Compensation or restitution payments to affected parties

5.6 Material Facts and Professional Service

Core Professional Obligations

- Act with honesty and integrity
- Serve client's best interests
- Enable informed decision-making
- Provide full disclosure to clients

Material Fact Disclosure Requirements

Purpose: Must disclose material facts to provide conscientious and competent service

Buyer's salesperson responsibility

- More involved in determining material facts since sellers may already know property issues

Common material facts requiring disclosure:

- **Structural conditions:** Roof leaks, mechanical/electrical deficiencies, basement water seepage
- **Environmental hazards:** Asbestos, lead, mold, previous use as grow-op
- **Property specifications:** Building measurements, lot size
- **Financial obligations:** Property taxes and assessments

5.7 Advertising Methods and Standards

Required Registrant Identification

All advertising must clearly include

- Registrant name: Legal/trade name registered with RECO
- Individual names: Must match exactly how registered with RECO
- Brokerage identification: Must clearly identify the brokerage
- Correct registration status: Accurate job title descriptions

Prohibited terminology

- Cannot use confusing terms like "sales agent," "sales associate," or "sales consultant" (could be confused with proper registration status)

Avoiding Inaccurate Representations

Examples of violations

- Advising buyer that foundation crack is "nothing to worry about"
- Stating home is "solid brick" when it's frame construction with brick veneer

High-risk advertising areas

- Comparative rankings (e.g., "#1 brokerage in town")
- Business volume claims (e.g., "over 100 transactions last year")
- Savings promises (e.g., "\$1,000 cash back")
- Awards and honors (e.g., "President's Award")

Advertising Best Practices

For comparative claims:

- Disclose basis of comparison and source of information
- Include details of how claim was determined

For business volume statements

- Explain how claim was determined and relevant time period
- Identify which salesperson/brokerage the claim refers to
- For team claims: note team size or identify team members

For commission/savings promises

- Include disclosure of all conditions where rates apply or don't apply

For awards and honors

- Include source and date of award
- Note if award was shared with others
- Don't claim awards that were purchased rather than earned

Professional Conduct Summary

Required standards

- Avoid error, misrepresentation, fraud, and unprofessional conduct
- Provide conscientious and competent service
- Act in client's best interests
- Demonstrate reasonable knowledge and competence
- Treat everyone with fairness, honesty, and integrity

Module 6

6.1 Contracts

Definition of a Contract:

A contract is a legally binding agreement between two or more persons, competent at law to enter into such an agreement, for consideration or value, to do or refrain from doing something lawful. It confers a legal obligation on the relevant parties.

Key Elements of a Contract:

- Promise made by one to another enforced by law.
- To be enforceable, a contract requires an understanding between the parties to create a legal obligation.
- The underlying intention is that it is binding on the parties; oral contracts, letters, or legal documents are included.

Legislation Impacting Contracts:

- Legislation impacts the preparation of agreements for the sale or lease of real estate.
- **Statute of Frauds:** Requires that all contracts involving the transfer of ownership of real estate must be in writing to be enforceable by law.
- The Vendors and Purchasers Act deems certain information to be included in every agreement of purchase and sale:
 - Must be complete and accurately describe the subject of the agreement and the parties' intentions.
 - Seller is not bound to produce any abstract of title, deed, or other evidence of title except as in the seller's possession.
 - Buyer shall search the title at their own expense and make objections within 30 days from the making of the contract.
 - Seller has 30 days to remove any objection made to the title; if unable, the seller may cancel the contract.
 - Taxes, local improvements, insurance premiums, rent, and interest shall be adjusted as of the date of closing.
 - The conveyance shall be prepared by the seller; the buyer bears the expense of registration.

- Buyer entitled to possession or receipt of rent and profits upon the date of closing.
- **TRESA** identifies requirements for the content and delivery of real estate agreements:
 - All agreements must be reduced to writing at the earliest opportunity and signed by brokerage.
 - Copies of representation agreements must be immediately given to the seller or buyer.

TRESA Update: RECO Information Guide Key Requirements for Contracts

Here are essential guidelines for creating and managing contracts:

- **Provide RECO Information Guide:** Must explain at the earliest opportunity, before services or assistance.
- **Clarify Representation:** Explains representation vs. SRP, duties owed, and remuneration.
- **Acknowledge Receipt:** Must be obtained and retained.
- **Written Agreements:** Ensure conveyancing agreements are in writing, legible, and all parties receive a copy promptly.
- **Parol Evidence Rule:** Oral agreements are inadmissible to contradict a written contract unless fraud or mistake is involved.
- **Privity of Contract:** Only parties to a contract can enforce it or be bound by it.

Create a Binding Contract Essential Elements

To establish a binding contract, ensure the following elements are present:

- **Offer and Acceptance:** Mutual agreement between parties.
- **Definiteness:** Complete and definite in its terms.
- **Reasonable Time:** Open for acceptance for a reasonable time frame.
- **Communication:** Must be communicated to the offeree.
- **Target Audience:** Made to one or more persons or corporations, or to the public in general.
- **Revocation:** May be revoked or withdrawn prior to acceptance, subject to certain limitations.
- **Unconditional Acceptance:** Once accepted, it is unconditional; any change is a counter offer.

- **Capacity:** Parties must be legally competent to make the contract.
- **Incapable Parties:** Includes mentally incompetent, intoxicated individuals, minors (under 18 in Ontario).
- **Corporate Existence:** Corporations must exist and have the right to enter into contracts.
- **Contracting Entities:** Partnerships, Condominiums/Co-operatives, and Non-profit organizations can enter into contracts.
- **Consideration:** Each party must receive something of value.
- **Value Validity:** As long as value exists (not excessively one-sided), it is valid; if no value, must be signed under seal.
- **Lawful Purpose:** The contract must have a lawful object or purpose.
- **Past Consideration:** Past promises not included in the contract are not enforceable.
- **Clarity:** Subject and terms of the agreement must be stated clearly.
- **Lawfulness:** The agreement must be lawful; no price fixing or criminal activity.
- **Genuine Intention:** Both parties must consent to the terms of the contract.

Lack of Genuine Intention

Factors that may indicate a lack of genuine intention include:

- **Mistakes:** Errors in understanding or intention.
- **Common Mistake:** Both parties are mistaken about an underlying fact.
- **Mutual Mistake:** Parties misunderstand each other or have contrary understandings.
- **Unilateral Mistake:** One party is mistaken about a fundamental aspect of the contract.

Misrepresentations

Types of misrepresentations include:

- **Innocent Misrepresentation:** A wrong statement believed to be true.
- **Fraudulent Misrepresentation:** Made with knowledge of its falsity to induce the other party.
- **Negligent Misrepresentation:** Made without reasonable verification, allowing the misled party to sue for damages.

Duress or Undue Influence and Failure to Disclose

Considerations regarding duress and disclosure include:

- **Duress:** Improper use of power to induce a contract.

- **Failure to Disclose:** Non-disclosure of material latent defects may invalidate a contract.

6.3 Breach of Contract

A contract may be:

- **Void:** Never came into existence
- **Voidable:** Originally valid but can be rejected later
- **Illegal:** Not enforceable by courts

Voidable contracts are enforceable until rendered void; the offended party elects to fulfill or void the contract.

Consequences of Breach

- **Failure:** Not fulfilling an obligation under the contract
- **Legal action:** Right conferred to the impacted party
- **Fundamental breach:** Breach that undermines the contract

Impacted Party Options

- **Accept breach:** Treat as released from further performance
- **Seek damages:** Start action against the breaching party
- **Waive breach:** Treat contract as still in effect
- **Explore remedies:** Seek other available options

If a breach does not go to the root of the contract, it may allow the impacted party to sue for damages without discharging the contract; this is known as a minor or compensable breach.

Remedies for Breach of Contract

- **Rescission:** Cancellation of a contract by court
- **Damages:** Compensation for losses incurred
- **Quantum meruit:** Reasonable sum for services rendered
- **Specific performance:** Court order to fulfill specific obligation
- **Injunction:** Court order to restrain wrongful actions

Termination of Contract

- **Performance:** Obligations fulfilled, rights satisfied

- **Mutual agreement:** Both parties agree to terminate
- **Impossibility:** Unforeseen circumstances prevent performance
- **Operation of Law:** Events like death or bankruptcy
- **Breach:** Termination due to contract violation

6.4 Electronic Commerce Act – E-signatures

- **Govern:** Creation, recording, transmission, and storage of contracts electronically
- **Allow:** All agreements to use e-signatures
- **Highlight:** Fields where a signature is required
- **Ensure:** Acknowledgment is received
- **Authenticate:** Confirms signature is from the right person

6.5 10 Principles of Privacy (PIPEDA)

Compliance Principles

Organizations must adhere to the following principles:

- **Accountability:** Designate individuals accountable for compliance
- **Identifying Purposes:** Clearly identify purposes for collecting information
- **Consent:** Obtain knowledge and consent for personal information collection
- **Limiting Collection:** Collect only necessary information
- **Limiting Use, Disclosure, and Retention:** Use personal information solely for its intended purpose
- **Accuracy:** Ensure personal information is accurate, complete, and up-to-date
- **Safeguards:** Protect personal information
- **Openness:** Make policies and practices readily available
- **Individual Access:** Inform individuals about the existence, use, and disclosure of their personal information
- **Challenging Compliance:** Allow individuals to address compliance challenges

Types of Information

PIPEDA applies to the following types of information:

- **Personal Information:** Information about an identifiable individual (e.g., name, address)
- **Sensitive Personal Information:** Subset dealing with sensitive data (e.g., financial information)
- **Personal Facts:** Non-identifiable facts; storage is not regulated if anonymous (e.g., demographic data)

Brokerage Compliance

Brokerages must designate a privacy officer to ensure compliance with PIPEDA:

- **Implement Policies:** Establish policies and procedures for personal information
- **Ensure Security:** Maintain adequate security and allow consumers to correct or access their information
- **Include Privacy Statements:** Add privacy provisions in agreements
- **Prepare Brochures:** Create brochures explaining privacy legislation and compliance in promotional materials

TRESA Update: Self-Represented Party (SRP)

- **Customer Elimination:** Non-clients are SRPs
- **Service Limitations:** SRPs cannot receive services or advice; only general information may be provided
- **Disclosure Requirement:** Provide SRP disclosure and recommend independent legal/financial advice

Salesperson's Obligations under PIPEDA

- **State Purpose:** Clearly state the purpose of obtaining information and obtain consent
- **Identify Use:** Inform consumers about the use of their personal information
- **Collect Necessary Information:** Gather only essential information
- **Disclose Reasons:** Explain the reason for collecting information
- **Maintain Privacy:** Ensure privacy is upheld
- **Return Information:** Return information as required

6.6 Matrimonial vs Family Homes

Matrimonial Home

- **Definition:** Every property occupied by spouses as their family residence is considered their matrimonial home

Matrimonial Property

- **Family Assets:** Any family asset not classified as the matrimonial home, with exceptions
- **Equal Rights:** Both spouses have equal rights to possession of the matrimonial home

Designation of Residence

Spousal Rights in a Matrimonial Home

- **Property designation:** Property deemed as the only family residence at the time of designation.
- **Joint registration:** Any property can be designated by both spouses as a matrimonial home; all other matrimonial homes are then released from the protection of Part II of the Family Law Act, eliminating issues concerning possession and the consent of the non-owner spouse.
- **Single designation:** If only one spouse completes a designation, all remaining matrimonial homes retain their status despite that registration.

Rights of a Common-law Spouse

- **Definition:** Spouses include common-law partners who have cohabited for more than 3 years, or who cohabit and are the natural or adoptive parents of a child or children; same-sex partners.
- **Family home:** Spouses who live together and are not married may have a family home, but it is not a matrimonial home.

Matrimonial vs Family Home

- **Ownership rights:** One common-law spouse owns the family home; they can sell or mortgage it without the other common-law spouse's permission, but this is prohibited with the matrimonial home of a legally married couple.
- **Post-relationship obligations:** In a common-law relationship, if the family home is sold and the relationship is dissolved, the registered owner may be required to make arrangements for satisfactory accommodation for the common-law spouse and/or provide support payments.

6.7 Planning Act

- **Sustainable development:** To promote sustainable economic development within the policy.

- **Land use planning:** To provide for a land use planning system led by provincial policy.
- **Provincial interest:** Integrate matters of provincial interest in provincial and municipal planning decisions.
- **Fair processes:** To make planning processes fair by being open and accessible.
- **Framework:** The Planning Act provides a framework for orderly land development and gives general administrative control of land use planning in Ontario to the Minister of Municipal Affairs and Housing, who issues the provincial policy statements.

Types of Municipalities:

- **Single-tier municipality:** Assumes all municipal responsibilities set out under the Municipal Act and other provincial legislation, e.g., City of Toronto, Windsor, London, Sudbury, etc.
- **Upper-tier municipality:** Formed by two or more lower-tier municipalities; responsibilities are split between the upper and lower-tier municipalities, with examples like Wellington County, Simcoe County, and regional municipalities like York, Halton, Peel, Niagara.
- **Lower-tier municipality:** Responsible for the preparation, adoption, and revision of the Official Plan and the adoption of zoning bylaws, e.g., City of Mississauga, Brampton; coordinates planning between lower-tier municipalities when an upper tier exists.

Planning Act Overview

The actual process of the Planning Act is carried out by municipal organizations; the provincial government maintains the function of approving proposals following passage by the municipal council.

Provincial Interests

Provincial interests are perfect planning within the province, which everyone must follow:

- Conservation and management of ecological systems, agricultural resources, and spaces of significance.
- Accessibility for persons with disabilities to all facilities and services.
- Adequate provision and efficient use of communication, transportation, sewage, and waste management systems.
- Distribution of educational, health, social, cultural, and recreational facilities.
- Resolution of planning conflicts and promotion of sustainable development.
- Promotion of built form that encourages a sense of place.

Provincial Policy Statements

These contain major policy areas concerning:

- Management of change and promotion of efficient development.
- Land use patterns stimulating economic growth while protecting the environment.
- Review every five years.

Policies to Support

Key policies include:

- Long-term planning for alternative and renewable energy sources.
- Discouragement of urban sprawl by supporting intensification.
- Protection of the environment and natural heritage resources.
- Promotion of affordable housing development.
- Response to concerns about farmland loss.
- Support and protection of rural areas.

Official Plan

The Planning Act establishes parameters for the development of the Official Plan:

- Approval by the Minister of Municipal Affairs and Housing.
- Locating new structures and needed services.
- Requirement for each municipality to have an Official Plan.
- Description of policies on land use for 10-15 years.
- Responsibility of the province in unorganized municipalities.

Contains

The Official Plan includes:

- Goals, objectives, and policies relating to physical change.
- Location of new developments and needed services.
- Description of measures to attain objectives and inform the public.

Purpose

The purpose is to:

- Provide a framework for future decision-making.

Creation

Involves:

- Formal process including input from citizens.

Approval Process

Details on the approval process will follow.

6.8 Official Plan Approval

- Approval usually requires Ministry of Municipal Affairs and Housing consent.
- Regional governments may have authority to approve local Official Plans.
- Development cannot occur unless it conforms to the Official Plan.

Process/Timeline for Review of Official Plan

- Amendment is a formal document altering the current Official Plan.
- Updates should occur at least every 5 years for consistency with provincial policy statements.

Zoning Bylaws

Enacted by municipalities to identify permitted uses and building structure standards.

Classified into categories (like residential) and sub-categories (like single-family).

A Zoning Bylaw:

- Implements Official Plan guidelines.
- Manages land use and future development legally.
- Protects the community from conflicting and dangerous land uses.

Controls Use of Land

Specifies:

- How land may be used.
- Where buildings and structures can be located.
- Lot sizes, dimensions, parking requirements, building heights, and setbacks.

Zoning Designations

Six General Uses

Each class is divided into sub-classes or zones designated with symbols:

- Residential (R) - further categorized as R1, R2, R3, R4, etc.

- Commercial
- Industrial
- Institutional
- Open Space
- Agricultural (AG)

Residential Bylaws

Sign Bylaw

Regulates the distance of signs from curbs, intersections, pedestrians, and cyclists. Some signs can be erected without a permit, while others require municipal approval.

Parking Bylaw

Addresses vehicle weight, dimensions, and requirements like current license plates. Municipalities typically prohibit sidewalk obstruction, with exceptions for courier delivery.

Noise Bylaw

Prohibits disturbing noise at any time, especially late night or early morning. Construction activities are limited to daytime to minimize disturbance.

Committee of Adjustment

Appointed by the municipal council of a lower-tier municipality; land division committee appointed by an upper-tier municipality.

Functions

- Granting minor variances.
- Providing consents to sever land.
- Granting consents for continuation of a non-conforming use.

Minor Variance and Rezoning

A minor variance is a small variation or modification concerning a property in relation to bylaws within a municipality.

A rezoning application is required when a property owner wants to use the property in a manner not permitted by the zoning bylaw. The council will only consider the application if the proposed use aligns with the Official Plan.

Comparatively, a minor variance is:

- Less time-consuming and easier process

- More straightforward than a rezoning application

In contrast, a rezoning application is:

- More time-consuming and complex

Minor variances are granted by the Committee of Adjustment.

Example: A homeowner wants to build a detached garage extending 6 inches into the property lot line setback; they would need to apply for a minor variance from the committee of adjustment.

Steps for Minor Variance Application:

- Pre-application consultation between the applicant and municipal planners.
- Preliminary project review to identify zoning bylaw requirements and prepare a list of the variances required by the proposal.
- Submit a complete application and fee (timeline of 30 days until committee hearing and decision).
- Schedule of hearing and posting of public notice sign.
- Notice of public hearing and application details circulated to area property owners.
- Committee of Adjustments hearing and decision (opportunity for third-party appeal to the local planning appeal tribunal).
- Committee of Adjustment decision is final and binding.
- Satisfying conditions of approval (if required).

Steps for Rezoning:

- Pre-application consultation between the applicant and municipal planners.
- Submit application with documents and fee (Complete application decision – 9 months’ timeline until final decision; opportunity for motion for directions to Local Planning Approval Tribunal).
- Application circulation (Community consultation + Technical response).
- Preliminary report to Community Council (if applicable).
- Response to applicant (e.g., reviews indicate municipal services will not support the proposed development).
- Application revision and resubmission (e.g., applicant revises application to be consistent with current municipal services).
- Recirculation, consultation, further revisions, finalization, and staff report (if required).
- Public meeting at Community Council (if applicable).

- Council decision (Official Plan amendment (if necessary)/amended zoning bylaw in effect).
- Opportunity for third-party appeal to Local Planning Approval Tribunal.

Non-conforming Use and Non-conforming Structures:

Zoning bylaws are regularly reviewed and amended by municipalities to respond to community evolution. As a result, properties and existing structures may no longer comply with the new zoning bylaw; these are called non-conforming.

Non-conforming uses are legal because they used to comply; they have an implicit non-conforming right to continue even though it is no longer permissible. This right is lost if the non-conforming use is discontinued for a certain time period; after cessation, the non-conforming use cannot be re-established.

Committee of Adjustments Considerations:

Continuous use of property (business existed and will continue).

6.9 Land Severance and Plans of Subdivision

Key Considerations

- Demolition or substantial renovation of a structure may need to comply with new zoning bylaws.
- Expansion of the current use may be required.

Land Severance

Approved division of a property into 2 or 3 new lots requires consent from the local municipality. Landowners must seek official permission to sever their property, as indiscriminate division could have long-term negative impacts on the community.

Consent - Granting Authority

Permission to sever lands is granted by:

- The local Land Division Committee or a Committee of Adjustments.
- Consent authority may be assigned to a council committee, an appointed official, or the council itself.

Generally, division into two or three smaller lots is submitted to a Committee of Adjustment, while significant land division requires submission to the local Land Division Committee.

Steps for Land Severance

1. Consult & determine authority (if property fronts on a municipal road, the tier of the municipality has authority).
2. Complete application:
 - Include the applicable consent application form, sketches, and submit it to the consent-granting authority; an application fee may apply.
 - Application must have:
 - Name and address of the owner
 - Type and purpose of the proposed transaction
 - Name of the person to whom an interest in land is to be transferred or leased
 - Description of the property
 - Detailed information concerning the land being severed and retained
 - Any previous application relating to the subject land
 - Sketch outlining the boundaries of the land and any abutting lands owned by the applicant
 - Description of previously severed lands from the lot – natural and artificial features
 - Use of adjoining land
 - Location of road allowances, streets, private roads, and right-of-way
 - Nature of any restrictive covenants or easements
 - 90-day timeframe for making a decision
1. Application review: If required, a public meeting is held; the consent-granting authority evaluates the merits of each proposal against criteria such as:
 1. Conformity with the Official Plan + Provincial Policy Statement (PPS) + zoning bylaws
 2. Sustainability
 3. Vehicular access
2. **Decision issued:** Refuse, consent, or grant provisional consent (may have conditions).
3. **Appeal process:** If applicable, decision sent to the applicant, who can appeal to the Local Planning Appeal Tribunal.

4. **Issuing of certificate:** If no appeal is filed and conditions are satisfied, a deed for the newly created lot is stamped with municipality consent and registered at the applicable Land Registry Office.
5. (When severance consent is conditional, typically a 1-year timeline is given to satisfy conditions.)

Steps for Subdivision

Subdivision Process Overview

1. Landowner divides a lot into several lots; a plan of subdivision is necessary; two-stage process: draft plan approval and final plan approval.
2. Consult and determine authority: usually upper-tier municipality (region or district), city council.
3. Prepare a draft plan: Developer creates a draft plan in consultation with engineers, solicitors, surveyors, and planning consultants; requirements as in the Planning Act:
 1. Boundaries of the land proposed to be subdivided
 2. Locations and names of proposed highways in the plan or highways abutting the property
 3. Adjacent subdivisions and properties in which the applicant has an interest
 4. Proposed use, dimensions, and layout of proposed lots and existing uses of adjoining lands
 5. Natural and artificial features
 6. Soil conditions and existing contours/elevations
 7. Existing or planned municipal services
 8. Nature and extent of restrictions affecting the land, such as from the Conservation Authority
4. Complete application: Each authority maintains application forms that require information identified by the minister's registration and other information required by the municipality; a 180-day time frame for approval begins after a completed application is received.
5. Approval Authority: Ensures notice of application is sent to surrounding property owners, and a public meeting may be held; other agencies may be consulted to ensure compliance with the area and availability of services like:
 1. Clerks of the local municipality, county, region, and/or district having jurisdiction for the area
 2. Conservation authorities

3. Electric utilities, natural gas utilities, oil pipeline companies
4. Local architectural conservation advisory committees
5. Niagara Escarpment Commission and federal parks commissions
6. Chiefs of First Nation councils within one kilometer of the area covered by the proposed plan of subdivision
6. **Decision and notice of decision:** Notice of decision sent to the applicant and those requesting notification; routinely mailed to neighboring landowners within a prescribed distance of the land; notice includes a description of the proposed plan, a map locating the property, source of additional information, statement concerning appeal, and notification of a decision relating to the application.
7. **Appeal Decision:** Mostly anyone can appeal to the Local Planning Appeal Tribunal (LPAT).
8. **Final Plan Approval:** If the final plan of subdivision is not registered within a certain time period, the approval authority may withdraw its approval.

Final Plan Registration

A new plan parcel register is created; prepared by a land surveyor showing lots, blocks, or parcels of land intended to be dealt with separately, and this type of separation has been fully approved; registered in the land registry office; lots can then be sold and transferred.

LPAT

An independent adjudicative tribunal that conducts hearings and makes decisions on land use planning issues and other matters.

Purpose

Hears cases in relation to a range of municipal planning, financial, and land matters; bylaws, subdivision plans, consents, and minor variances, etc.

Area of Jurisdiction Regarding First Appeals

- Appeals of a council decision to adopt or amend the Official Plan
- Appeals of a decision by an approval authority to approve a decision adopting or amending the Official Plan
- Appeals of a council decision to refuse a private amendment to the Official Plan or a non-decision (not deciding within 210 days) of a private amendment application
- Appeal of a non-decision by an approval authority or on a subdivision
- The federal government oversees airport facilities/lands, oceans, and canal systems.

6.10 Appeals and ID

Area of Jurisdiction Regarding Second Appeals

- Appeals on all issues that can have a first appeal
- Appeals of a non-decision regarding a site plan application
- Appeals of a Committee of Adjustment decision to approve or refuse a minor variance application or consent/severance application

Purpose of LPA Support Centre

The LPA Support Centre aims to:

- Help people understand and navigate the land use planning and appeal process in Ontario
- Establish a cost-effective and efficient system for providing support services to eligible individuals
- Establish policies and priorities for support services based on available financial resources
- Provide information on land use planning, guidance on tribunal procedures, advice or representation, etc.

Municipalities' Areas of Influence

- Public utilities
- Waste management
- Transportation, other than highways
- Highways (public roads), including parking and traffic
- Culture, parks, recreation, and heritage
- Drainage and flood control (except storm sewers)
- Structures (fences, signs)
- Parking (other than highways)
- Animal control
- Economic Development Services

Role of FINTRAC

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) assists in:

- Detecting, preventing, and deterring money laundering and terrorist financing
- Receiving financial transaction reports and voluntary information on money laundering and terrorist financing
- Ensuring compliance of reporting entities
- Enhancing public awareness and understanding of money laundering and terrorist financing

Three Salesperson Obligations

1. Know Your Client

a. Understand Your Client

1. Identify irregular or suspicious transactions
2. Learn how they found the brokerage, their family, community connections, and occupation

b. Ascertain/Verify Client Identity

1. Single process method (photo ID)
2. Credit file method (use a Canadian credit file existing for at least 3 years to confirm all personal information)
 - Dual process method (use two independent and reliable sources to confirm identity)
1. Confirm two of three categories of information:
 1. Name and address
 2. Name and date of birth
 3. Name and financial account
2. Engage an agency for international clients
3. Establish a business relationship within five years, with two transactions, within 30 days of the second

c. Determine Third-Party Involvement

1. Identify who's providing instructions or supplying funds
2. Ask if the deal is solo or on someone else's behalf

6.12 PCMLTFA

Third Party Information Required

- Obtain the third party's name, address, date of birth (person) or principal business (entity), or incorporation number and place of issue (corporation)

Must Report:

- Suspicious Transaction Reporting (STR): Submit with reasonable grounds, through the brokerage's compliance officer, within 30 days of determining that a transaction is suspicious.
- Large Cash Transaction Reporting (LCTR): Report if you receive \$10,000 in a single transaction OR multiple amounts from the same source, in a 24-hour period over \$10,000; submitted to FINTRAC through the brokerage's compliance officer within 15 days of the transaction.
- Terrorist Property Reporting (TPR): Know or believe property is owned or controlled by a terrorist or terrorist group.

PCMLTFA Recordkeeping Obligation

Must Keep Five Kinds of Records:

- Client information records: for five years.
- Receipt of funds records: for five years.
- Records of all submitted reports (STRs, LCTRs, or TPRs): STRs and LCTRs for five years, TPRs have no timeframe.
- **Unrepresented party records:** Record measures taken to determine their identity and the dates you did this; not required to keep this information.
- Records of reasonable measures taken: Record when reasonable measures were taken but were unsuccessful; dates and reasons why you were unsuccessful.

Five Additional Obligations Under the PCMLTFA (for Brokerages):

- Name a compliance officer.
- Have a written compliance policy and procedures.
- Provide training to everyone acting on its behalf (and keep records of events, attendees, minutes, and materials).
- Complete a written risk assessment: Analysis of potential threats and vulnerabilities to money laundering and terrorist financing that the brokerage faces.
- Carry out a two-year program effectiveness review: Check for the effectiveness of the compliance program.

Penalties:

- Non-compliance: Fines of \$200,000 - \$2 million.
- Administrative Monetary Penalties: Fines of \$1 - \$500,000.

Condominium Corporations:

Created with both a declaration (the condominium constitution) and the description (the diagrammatic presentation of the property).

Declaration for the Creation of the Condominium:

Required Information:

- Statement that the Condominium Act governs the corporation.
- Consent of registered mortgagees.
- Proportionate share of common elements appurtenant to each unit.
- Proportionate contribution of unit owners to common expenses.
- Corporation address for service.
- Common elements for designated units (exclusive use common element), if applicable.
- Any conditions required by the approving authority.

Description for the Creation of the Condominium:

The description contains a series of plans, surveys, and specifications describing the property and structures, together with certificates attesting to compliance and accuracy. Documentation will vary based on the individual project and typically includes:

- Plan of survey.
- Architectural plans and Certificate of Architect.
- Unit boundaries.

Key Documents and Regulations

Essential Documents

- Unit shape, dimension, and location
- Structural plans (if any) and Certificate of Engineer
- Certificate of Ontario Land Surveyor
- All interests appurtenant to the land included in the property

Condominium Act Overview

The Condominium Act regulates most aspects of a condominium's formation, purchasing, and governance. Each condominium document is based on this Act.

The Act is invoked by the declarant through the registration process. The declarant is the individual who holds the freehold or leasehold interest in the land on which the condominium sits. They must

have consent from registered encumbrancers against the property, such as mortgagees and lien holders.

Forming a Condominium Corporation

A corporation without share capital is automatically formed upon incorporation, where members are the unit owners. The declaration serves as a notice of the creation of the corporation and describes the property. The land registrar for the applicable land registry office gives the corporation a name and a sequential number (e.g., Anycity, South Condominium Corporation 986).

Residential Condominium Conversion Projects

The conversion of warehouses and industrial structures into residential condominium lofts is becoming more popular. These projects often incorporate interesting features like large windows, framing, and brick walls.

The Ontario New Home Warranties Plan Act protects buyers of these condominiums. This extension of provincial warranty coverage applies to projects where an agreement of purchase and sale of units in a conversion project is signed on or after January 1, 2018. However, the condominium conversion of an existing residential building, like an apartment block, is not eligible for provincial warranty coverage.

Dispute Resolution Authorities

To streamline disputes between condo owners and the board, there are two independent authorities:

Condominium Authority of Ontario

- Provides affordable access to quicker and lower-cost resolution of disputes.
- Offers tools to prevent easily resolvable disputes.
- Educates owners and directors; provides a guide for buyers.
- Maintains a registry of all condo corporations in Ontario.

Condominium Management Regulatory Authority of Ontario

Mandatory training for condo boards (through the Condominium Authority of Ontario):

Director Training Requirements

- Completion of training within 6 months of the date of their election.
- No need to retake training if completed within the preceding 7 years.
- Exemption for directors appointed by a developer or elected by owners before turnover.
- Disqualification from being a director for failure to complete training.

Condo Reserve Fund

All condos must have a reserve fund, separate from their operating fund, used for major repairs and replacements. A portion of each owner's monthly common expenses fee is deposited into the reserve. If repair costs to common elements exceed the reserve, owners will have to pay.

6.13 Condominiums

Tenancy Types: Residential and Commercial.

If property is used for business or commercial activity, the Commercial Tenancies Act applies. If property is used for residence, with some exceptions, the Residential Tenancies Act applies.

Key Provisions of the Condo Act Rules, Regulations, Bylaws

Bylaws document standard procedures and requirements for condos' internal operations. They are operated by the board of directors and must have a majority of unit owners vote in favor.

Board of Directors

Changes can occur, but the board must provide:

- A copy of the rules
- The effective date
- Notice of a potential meeting

Rules are not effective until approved at a requisitioned meeting within 30 days; no meeting = rules are a go.

Common Expenses

All owners must pay common expenses, and any failure is akin to that of a mortgage.

Status Certificate

The status certificate contains information regarding:

- The status of the individual unit
- The operational, legal, and financial dimensions of the condo corporation

Each person that requests it must receive a certificate within 10 days after requesting the document for a fee no more than \$100 + tax.

Owner Alterations and Additions

Restrictions apply to renovations and repairs without approvals or non-existent documents. Condo corporations may prohibit:

- Installations

- Alterations
- Temporary or permanent improvements

Condo Management CMRA (Condo Management Regulatory Authority of ON)

CMRA issues four types of licenses:

- Three for individuals based on education and experience
- One for condo management companies

All licenses must be renewed annually; retake training courses; some are exempt if providing services within their specialization.

Code of Ethics for Condo Management

Key principles include:

- Do everything right
- No gifts if it influences decisions; treat everyone honestly

Condo owners can file a formal complaint to CMRA if they believe a manager or company violated the code; this may require a site inspection and a hearing. CMRA handles complaints, seeks mediation, but will discipline at a hearing if needed.

Residential Tenancies Act

Key points include:

- Rent must be negotiated prior to occupancy with the landlord.
- No charge of rent or increase is permitted beyond the lawful rent allowed.
- Security deposit: cannot demand a security deposit over and above any rent deposit requested; any reference to a security deposit is automatically deemed to be a rent deposit.
- Rent deposit: Must pay the agreed amount at every agreed-upon time, whether weekly or monthly; the landlord must provide receipts relating to rents if requested by the tenant.
- Rent increase: The landlord must give 90 days' notice and can increase it more than the guideline in accordance with the Act.
- Dispute resolution: The Landlord and Tenant Board provides information about the Act and resolves disputes through mediation or a hearing.

End of Lease Information

At the end of the lease:

- It automatically converts to a month-to-month periodic tenancy.

- Termination requires notice with reasons and details.
- The length of the notice period depends on agreement; notice may not be required if both parties agree.

Commercial Tenancies Act

Key points include:

- Rent is determined by the terms of the lease agreement.
- Security deposit is negotiable.
- Rent deposit is permitted without restriction.
- Rent increase has no restrictions.
- Dispute resolution can occur at the Superior Court of Justice or the Small Claims Court branch.

Additional End of Lease Details

The landlord can:

- Terminate a month-to-month tenancy with a minimum of one month's written notice.
- Charge two months' rent for every month the tenant stays after the lease ends.
- Obtain an eviction order if necessary.

Module 7

7.1 Advertising and Consent

National Do Not Call List (DNCL)

Telemarketing Warning: Calling someone who did not ask is considered telemarketing; fines may apply.

If cold calling, the brokerage must:

- Register with the national DNCL operator
- Subscribe to their services
- Pay for subscription-based services

Additionally, the brokerage must maintain an internal DNCL:

- List those who opt-out
- Include date, time, consumer's name, contact info, and phone number
- Keep the list for 3 years

Note: This applies to residential consumers, not business consumers.

Before calling, ensure the brokerage:

- Subscribes to the National DNCL
- Follows calling policies
- Uses the internal DNCL
- Monitors both lists

Canada's Anti-Spam Legislation (CASL): Does not apply to social media posts, websites, blogs, two-way voice communication, faxes, or voice recordings.

CEM: Electronic message encouraging participation in commercial activity.

Requirements for Sending a CEM

- Obtain consent; express written consent is recommended.
- Identify yourself; include name, business details, and contact info.
- Provide means for the recipient to withdraw consent
- Non-compliance results in fines.
- Sending unsolicited emails violates CASL; written or implicit consent is required.

Express Consent

- Opted in through a sign-up.
- Can be oral or written.
- Silence or inaction does not imply consent.
- Consent must be obtained through an opt-in mechanism; pre-checked boxes are not allowed.

Implied Consent

Based on prior relationships, such as:

- Pre-existing business relationships
- Inquiries made within the last 6 months
- Existing non-business relationships
- Published email addresses in a business context

Consent in Case of Referral

Not Required in Case of Referral If:

- The referral was made by someone with a relationship to the recipient.
- Full name of the person making the referral is provided, along with a statement that the CEM is being sent due to the referral.
- Only one CEM can be sent.

Info Required in CEM

- ID of registrant, registered name, and designation.
- ID of brokerage and registered name.

CEM Guidelines

- Avoid confusing terms like sales agent, associate, or consultant.
- Do not include property details unless consent is obtained from all parties involved (buyer, seller).

Competition Act

Purpose: Addresses forms of competition and protects consumers.

- Prohibits misleading ads.

- Outlaws conspiracies: unlawful agreements between competitors to fix or increase prices.
- Prevents price maintenance: attempts to influence prices upwardly or discouraging lower prices.

7.2 Ownership and Income

Bid-rigging: Agreement in response to call or request for bids, where bidders agree not to submit bids or submit pre-arranged bids, criminal offence.

Maintaining Compliance with Competition Act

Key actions to avoid:

- Do not collude
- Do not discriminate
- Do not mislead

Additionally, do not discuss your brokerage's commission structure.

Understanding Capital Gains

Capital gain: Net increase in value of a capital property from date of purchase to the date property is sold (e.g., cottage, investment duplex, land, buildings, shares, bonds, funds, trust units).

50% of the net proceeds is added to the income of the taxpayer and taxed at the appropriate tax rate.

Business Income

Business income: Income earned from an activity undertaken for profit (e.g., income from house painting or consulting business, rental income), excluding salaries received from an employer.

Net income after deducting expenses is taxed differently from capital gains.

Factors Distinguishing Capital Income and Business Income

Consider the following factors if investigated by CRA:

- Intention: Taxpayer's intention when purchasing property; if bought as an investment with the intention to resell for profit, it may be considered business income.
- Relationship: If taxpayer uses expertise from their business to generate profit on sale or purchase of similar commodities.

- Frequency: How often the taxpayer engages in the sale of capital property; frequent transactions suggest conducting business for profit.
- Nature: Taxability may be indicated if the asset cannot normally be used personally or for investment purposes.
- Objects: If the transaction falls under the corporation's objects and is part of usual business activities.

Salesperson's Obligation

Property Subject to Capital Gains Tax May Include:

- Sale of a **single-family home** used as a rental property
- Sale of a **cottage** that is not the seller's principal residence
- Sale of a **property** that was inherited and temporarily rented but never lived in by the seller
- Sale of a **commercial property**; whether occupied by the owner or tenanted

Principal Residence

A principal residence includes various types of housing where a person usually lives, such as:

- A house
- An apartment in a duplex or apartment building
- A cottage
- A houseboat
- A trailer or mobile home
- A share in a co-operative

Generally, the principal residence is excluded from taxation; however, taxes are payable on business and investment income.

If the property sold has an increase in value, it is considered a capital gain. If the property was only a principal residence, the seller does not have to pay tax on the capital gain. If it was not the principal residence at any time, the seller may have to pay proportionate capital gains tax.

To Qualify as a Principal Residence

- The taxpayer must own the housing unit.
- The family unit may only have one principal residence at a time.

7.3 Housing Land Regulations

Land upon which housing sits cannot exceed about 1.24 acres unless they can prove they require more land for personal use and enjoyment.

Tax Considerations

Key points regarding tax implications include:

- Residency: Seller must be designated as taxpayer's principal residence for the year.
- Professional Advice: For tax matters, consult a professional.
- Buyer Inquiry: Buyer expected to make reasonable inquiry about seller's residency status to protect themselves.

If the seller is a resident of Canada, the buyer's lawyer will:

- Request: Ask the seller's lawyer to have the seller sign a statutory declaration confirming they are not a non-resident.

If the seller is a non-resident:

- Tax Payment: Seller may pay the tax liability in advance of the sale completion, calculated using estimated sale proceeds minus the property's adjusted cost base.
- Certificate Issuance: Once seller files documents and pays taxes, the Minister of National Revenue issues a certificate.
- Credit Requirement: If the seller gets this before closing, no credit needs to be applied; otherwise, the seller must give a credit to the buyer at closing to cover tax liability.

Funds must be paid by the buyer on the seller's behalf within 10 days following sale completion. If the certificate is not received before closing:

- Holdback: Buyer's lawyer will hold back 25% of the sale price to cover the seller's tax liability.

If the buyer does not consider the residency status of the seller and pays the full purchase price, they could become liable for capital gains taxes.

Residency Clause

In the agreement of purchase and sale directed to a non-resident seller disposing of Canadian property, tax is calculated based on anticipated capital gains payable.

Environmental Protection Act (EPA)

Primary environmental legislation impacting ownership and use of real property in Ontario aims to:

- Protect: Ensure health of the environment is protected.

- Assess: Risks are assessed, and remediation is carried out.
- Encourage: Citizen participation in environmental matters.

The purpose of this legislation is to prevent pollution and protect the environment and human health.

Role of Ministry of Environment, Conservation and Parks

The ministry works to:

- **Promote:** Clean and safe air, land, and water.
- **Investigate:** Matters concerning pollution, waste management, and litter management.
- **Enforce:** Can search and seize, enter and search premises, interview individuals, and examine documents to ensure compliance with the EPA.

The ministry can issue various licenses, permits, and certificates of approval for:

- **Private Water Wells:** Permits relating to private water wells.
- **Herbicide Use:** Approvals concerning herbicide use by cottage owners.
- **Contaminated Lands:** Remediation of contaminated lands.
- **Land Development:** Associated sewage works.
- **Septic Waste:** Haulage of septic waste.
- **Air Quality:** Control of emissions.
- **Pollution Approvals:** Issues approvals for businesses to emit certain amounts of pollution.

Every person who causes or permits a spill must notify the ministry and the affected municipality about the spill and take steps to remedy it.

7.4 Environmental Considerations

Provincial Policy Statement under planning act and Greenbelt plan outlines government policies on land use planning.

The Greenbelt plan protects the greenbelt and works with the Oak Ridges Moraine Conservation Plan and Niagara Escarpment Plan to determine areas where urbanization should not occur.

Compliance and Environmental Assessments

If businesses refuse to comply with an order, the ministry will enforce it and request payment.

An environmental site assessment may be required to evaluate potential contamination.

Four Ways to Minimize Risk to Environment:

- Be well-informed
- Ensure honesty and fairness in negotiations
- Draft accurate agreements/contracts
- Seek expert advice when necessary

Environmental Site Assessment:

This assessment determines if there is any environmental contamination (e.g., petroleum) and any contamination within the building (e.g., asbestos).

Anyone with ownership or possession of a contaminated property, or those who caused it, can be liable for civil and regulatory penalties (fines/imprisonment).

If the assessment indicates further investigation and possible remediation are needed, this may negatively impact the transaction. The buyer will require the seller to provide a Phase 3 remediation report confirming that contamination has been remediated according to ministry guidelines, along with a reliance letter in favor of the buyer or buyer's lender.

Three Phases in Environmental Assessments

Phase 1: Environmental Site Assessment

Conducted by a certified environmental site assessor to identify potential contamination.

Assessor Will:

- Visit the property for visual evidence
- Review background documents, historical aerial photos, title searches, and request information from the ministry of environment or municipality
- Interview site personnel, government officials, and third parties
- Report findings and conclusions

No lab testing, sample gathering, intrusive investigation, or physical analysis is required. The assessment only determines if there are reasons to believe a property may have contamination.

Phase 2: Environmental Site Assessment

This phase is triggered by Phase 1 if contamination is suspected.

Attempts to:

- Confirm if environmental problems exist
- Quantify the extent of contamination

- Suggest a remediation plan to resolve the issue

This phase requires collecting samples of soil and groundwater through on-site drilling, which undergo physical analysis and lab testing to determine contamination levels. Results are reviewed and reported.

Phase 3: Environmental Site Assessment

This phase involves developing an environmental remediation strategy and work plan for execution.

- Remediation of the site
- Reporting to confirm if remediation was successful and met required guidelines
- Providing a formal report outlining follow-up actions to monitor for residual contaminants and confirming contaminant removal, treatment, and site status
- If remediation is not feasible, the report may include a site-specific risk assessment (SSRA) defining contamination levels and potential developable uses with restrictions

7.5 Greenbelt

Land Protected by the Greenbelt Plan

Protected areas include:

- Oak Ridges Moraine
- Niagara Escarpment
- Parkway Belt West Plan Area
- Glenorchy Conservation Area

If you have a client, take reasonable steps to determine material facts of property affecting their decision to sell or buy.

TRESA Update: Self-Represented Party (SRP)

- Customers are eliminated; non-clients are SRPs.
- SRPs cannot receive services or advice; only general information may be provided if it benefits your client.
- Provide SRP disclosure and recommend independent legal/financial advice.

Golden Horseshoe Growth Plan

The Greenbelt is part of Ontario's Greater Golden Horseshoe Growth Plan (Growth Plan). This plan clarifies where and how future urban structural growth should be accommodated to protect future generations.

The Greenbelt Plan, Niagara Escarpment Plan, and Oak Ridges Moraine Conservation Plan use the provincial policy statement to support the economy, environment, and social infrastructure.

These plans specify Ontario's Climate Change Strategy and the government's commitment to reduce greenhouse gas emissions.

Impact of Greenbelt Plan

The plan may affect owners looking to develop vacant land or expand properties within the Greenbelt plan areas. Advise them to seek legal advice.

Endangered Species Act

Species classifications include:

- **Extirpated:** Exists somewhere in the world but is now extinct in Ontario.
- **Endangered:** Exists in the wild in Ontario but is facing possible extinction or extirpation.
- **Threatened:** Exists in the wild in Ontario and is not endangered, but steps need to be taken to address factors threatening it.
- **Special Concern:** Exists in the wild in Ontario and is not endangered or threatened, but may become threatened or endangered.

Plants and animals that are endangered, threatened, or extirpated are automatically protected from harm or harassment, including their habitat.

The Endangered Species Act sets out timelines to strategize and plan recovery for at-risk species, tools to help reduce human impact on species and their habitats, and tools to promote protection and recovery.

A PERMIT is required to build a new subdivision or install infrastructure that will affect a newly protected species or habitat. This establishes certain rules depending on:

- When the project received approval
- When work began or will begin
- Project's current status
- Project type
- When a species was classified as threatened or endangered

The Ministry of Natural Resources and Forestry can grant different types of permits for activities otherwise not allowed.

Energy Efficiency Regulations Impact

Regulations affect:

- Household appliances
- Water heaters
- Heating and AC equipment
- Lighting products
- Electronic products
- Refrigeration equipment

Energy-Efficient Home Solutions

Explore various aspects of energy-efficient homes:

Energy-Efficient Home Features

- Well-insulated and air-tight with high-efficiency heating and cooling appliances
- Low-flow showers and toilets to reduce water usage
- Energy-efficient lighting and appliances, including ENERGY STAR certified products

Small Changes for Energy Efficiency

Implement these small changes to enhance your home's energy efficiency:

- Use a programmable thermostat to lower temperature automatically
- Seal air leaks with weatherstripping and caulking
- Replace old bulbs with ENERGY STAR certified CFLs or LEDs
- Insulate hot and cold water pipes with foam sleeves
- Upgrade exhaust fans to ENERGY STAR certified models with timers
- Install water-saving faucets, showerheads, and toilets
- Utilize power bars that do not consume standby power

Green Building Principles

- Promotes energy efficiency
- Ensures durability in component products
- Encourages sound environmental planning
- Integrates comprehensive solutions

Rating Systems for Green Building:

Leadership in Energy and Environmental Design (LEED):

Independent rating system that benchmarks the design, construction, and functioning of green buildings, managed by the Canada Green Building Council (CaGBC).

R-2000

Encourages energy efficiency and environmentally responsible home construction, managed by the Office of Energy Efficiency (Natural Resources Canada).

Green Building Features

- Ecological considerations (green roofs, tree retention during construction)
- Indoor air quality improvements
- Waste recycling and diversion systems
- Energy efficiency enhancements (insulation, smart-window technology)
- EnerGuide program for rating and labeling consumer items

EnerGuide Program

Administered by the Office of Energy Efficiency, the EnerGuide label must be affixed to all new electrical appliances manufactured or imported into Canada.

Energy Efficiency Evaluation Report

For both new and resale homes, it contains:

- Efficiency rating
- Energy Consumption Overview
- Estimated annual energy consumption and costs
- Energy consumption by end use
- Estimated heat loss
- Recommendations for retrofits that will reduce energy use

7.6 Ontario New Home Warranties Plan Act

Governs most new home construction, outlining warrant coverage for new homes and condos in ON.

Every builder or vendor selling new homes must warrant that it is constructed efficiently, free from defects, and in accordance with the Ontario Building Code.

Provisions include buyer's deposit, delayed closing, and substitution of finishes during construction.

The Tarion Warranty Corporation is a not-for-profit corporation that administers the Act on behalf of the provincial government, ensuring homeowners receive warranty coverage and that building standards are met.

Total coverage is capped at \$300,000; max of \$15,000 for warranty damage involving environmental harmful substances; septic system claims max of \$25,000; condo common elements for \$50,000 times the number of units to a max of \$2.5 million; total coverage for condo projects (units + common elements) capped at \$50 million.

Enrol Home

Anyone building or selling new homes must be registered with Tarion, the provincial warranty authority that administers the Ontario New Home Warranties Plan Act and regulates the new home building industry.

Warranty Coverage

Builders and vendors must provide warranty coverage to buyers.

Homes are eligible for three warranties with specific coverage for one-, two-, and seven-year periods.

Each warranty for a new home or condo unit begins on the date of possession, except for the warranty on a condo's common elements, which begins upon registration of the condo declaration and description.

One-Year Warranty

Builder warrants for one year from the date of possession that the home is free of defects, fit to live in, and meets requirements, including major structural defects as those in the seven-year warranty.

Two-Year Warranty

Addresses

- Water seepage through basement or foundation
- Defects in materials and work that prevent water penetration
- Defects in materials and work in electrical, plumbing, and heating
- Defects in materials and work resulting in detachment, displacement, or deterioration of exterior cladding
- Major structural defects as those in the seven-year warranty

Seven-Year Warranty

Major Structural Defects

- Any defect in materials or work that results in failure of a load-bearing part of the home's structure
- Any defect in materials or work that significantly and adversely affects the buyer's use of the building as a home

Salesperson

Obtain detailed warranty info from the builder or seller.

Ask the builder for the registration number and the home's enrolment number; each condo has an enrolment number for each unit and a number for the common elements.

When a home resells, the warranty stays with the home until the end of the warranty period.

Available on the Certificate of Completion and Possession sticker located on the electrical panel and warranty certificate; or contact Tarion.

7.7 Homes and Building Codes

Temporary and Seasonal Homes

- **Temporary** or seasonal homes
- **Homes** built on existing footings/foundations
- **Previously lived-in** homes by the builder or vendor before sale
- **Converted** existing rental residential buildings to condominiums
- **Investment** properties held by limited partnerships
- **Contractor** erects the shell; owner completes interior work
- **Trustee** or receiver sales may lack coverage; contact Tarion

Ontario Building Code

The Ontario Building Code sets out minimum standards for:

- Building design and provisions regarding safety
- Fire protection and structural integrity

Recent amendments allow:

- Construction of mid-rise wood buildings up to six floors
- Enhanced barrier-free requirements for accessibility

The Building and Development Branch administers the code, reviewing and amending it every 5 years.

Common Projects Requiring a Building Permit

Permits are required for:

- Constructing or demolishing a building
- Finishing previously unfinished spaces (e.g., family rooms, attics)
- Repairing and underpinning foundations
- Installing pools
- Building decks above a specific height
- Constructing any building over 10 square metres
- Building attached and detached garages
- Renovating or repairing a building

Common Projects That Do Not Require a Building Permit

Exempt projects include:

- Building an uncovered platform or deck not attached to a residential building
- Mounting a skylight in a building not exceeding three floors
- Re-cladding a building not exceeding three floors with non-combustible material
- Installing or replacing appliances
- Replacing furnaces or boilers
- Replacing windows, doors, or roofing
- Repairing plumbing fixtures

Ontario Fire Code

The Ontario Fire Code ensures:

- Safety of occupants through fire hazard control
- Maintenance of life safety systems
- Establishment of a fire safety plan

The Fire Protection and Prevention Act allows:

- Fire marshal access during emergencies and investigations

- Inspections and related orders
- Enforcement of offences and recovery of costs

Fire Code Requirements

All buildings must have:

- **Fire alarm** systems and smoke detectors
- **Carbon monoxide** alarms and sprinkler systems
- **Working** smoke alarms on every story

7.7 Ontario Building Code (continued)

Carbon Monoxide Alarm Requirements

Install carbon monoxide alarms in the following locations:

- Adjacent to each sleeping area in single-family dwellings with fuel-burning appliances, fireplaces, or attached garages.
- Adjacent to each sleeping area in multi-family dwellings (condos/apartments) with fuel-burning appliances or fireplaces, and a common wall or floor with a garage/service room containing a fuel-burning appliance.

Testing Requirements

Landlords must test carbon monoxide alarms:

- Every year
- After a change in tenancy
- After a battery replacement (if battery-operated)
- After any change to the electrical circuit (if connected)

Ontario Building Code vs Ontario Fire Code

Safety requirements are regulated by:

- The Ontario Building Code (regulation under the Building Code Act)
- The Ontario Fire Code (regulation under the Fire Protection and Prevention Act)

The Ontario Building Code applies to:

- Construction of new buildings
- Alterations within existing buildings

The Ontario Fire Code regulates:

- Fire safety in existing structures

Part 3 of the Building Code sets out requirements concerning:

- Fire protection and safety (e.g., fire resistance, separations, closures, firewalls, equipment)

Retrofit Requirements

When new regulations are passed, properties may require:

- Upgrades or retrofits to comply

For single-family homes, requirements include:

- Smoke alarms outside of bedroom areas and on every level
- Carbon monoxide alarms adjacent to each sleeping area on each floor

Additional requirements include:

- Containment: Adequate separation between residential units to protect occupants from fires in other units
- Means of egress: At least two exits from the unit (e.g., door to staircase and accessible window)
- Fire alarm and detection: Installed on each floor of each unit
- Electrical safety: Satisfactory inspection of electrical wiring; issues must be corrected and re-inspected

Ontario Electrical Safety Code

Focuses on installing and maintaining electrical equipment.

Authority Provides Inspection Services

Inspections include:

- **Wiring inspections:** Required for all new construction and renovations
- **General inspections:** Visual inspections to identify electrical defects
- **Inspection certificates:** Confirm compliance with requirements

Inspection Required If:

Inspections are necessary in the following situations:

- Before new services can be connected to the local electrical distribution system
- After upgrades to electrical service

- Before reconnecting a customer whose service has been disconnected for six months
- Before reconnecting power at a property that has experienced a fire
- For obtaining insurance on a property

Steps for Obtaining a Permit

Follow these steps:

- Hire a licensed electrical contractor
- Apply for a permit within 48 hours of starting electrical work

7.8 TSSA

Compliance with Fuel Storage Tank Regulations

Submit a request for inspection: The party conducting electrical work will request an inspection or contact the service center to schedule a review by an Electrical Safety Authority inspector. If the work does not comply with code, the inspector issues a defect notice indicating required corrections.

Role of Technical Standards and Safety Authority (TSSA)

The TSSA reports to the Ministry of Government and Consumer Services and is responsible for:

- Regulating all aboveground fuel storage tanks
- Ensuring underground fuel storage tanks are registered and inspected
- Overseeing a range of activities under the Technical Standards and Safety Act, 2001

To register an underground fuel storage tank, a homeowner must:

1. Submit the Underground Fuel Oil Application Form to TSSA
2. Receive a registration number after approval
3. Provide the registration number to the fuel distributor to access fuel supply

Requirements for Upgrading/Disposing of Underground Fuel Storage Tanks

Underground fuel storage tanks may corrode over time. The TSSA states that:

- Tanks must be upgraded with specific leak and spill prevention equipment or removed
- All currently used tanks most likely have been upgraded to required standards
- These requirements do not apply to abandoned tanks with unknown locations

Only a TSSA-registered contractor is allowed to:

- Install
- Repair

- Remove an underground fuel storage tank

Contractors must also be certified as a Petroleum Equipment Mechanic 2. Homeowners must verify the contractor's registration number before hiring.

If Leakage Occurs

The property owner must:

- Contact a TSSA-registered fuel oil contractor to find and stop the leak
- Call the Spills Action Centre of the Ministry of the Environment, Conservation and Parks

Homeowners should verify if the property has an underground fuel storage tank and consider:

- Contacting TSSA to confirm the existence of the tank
- Testing surrounding soil for contamination

Calculations

GDS

$GDS = (\text{monthly housing-related costs} + 50\% \text{ of condominium fees} / \text{gross income}) \times 100$

Note: Freehold purchase does not include common expenses.

Value of a House

$(\text{Revenue} - \text{expenses}) = \text{Net operating income}$

$\text{Net operating income} / \text{capitalization rate} = \text{Sale Price}$

Additional Calculations

- $\text{Effective Gross Income} = \text{Gross Income} - \text{Vacancy/Collection Loss}$
- $\text{Net Operating Income} = \text{Effective Gross Income} - \text{Operating Expenses}$
- $\text{Capitalization Rate} = \text{Net Operating Income} / \text{Sale Price}$ (sale price rounded to nearest \$1000)
- $\text{Income Approach (Gross Income Multiplier)} = \text{Sale Price} / \text{Effective Gross Income}$

Effective Gross Income m

Rental Units Overview

Key Financial Metrics

Net Operating Income: Gross income – operating expenses – vacancy – bad debt – property taxes

Status Certificate Components

Essential items include:

- Legal documentation
- Contact names
- Financial statement
- Finances overview
- Reserve fund statements

Assessment Fees

If owners choose not to pay the extra assessment fee, a lien will be placed on the unit within a 90-day time frame.

Condominium Regulations

Important rules include:

- Condos cannot be shorter than 6 months
- A higher owner-to-tenant ratio is desired

Mortgage Qualification

Gross Debt Service: Must be lower than 35% for mortgage qualification.

Calculated as: $\text{monthly housing-related costs (+ 50\% of the condominium fees) / gross monthly pay} \times 100$.

Condominium Expenses

Condominium purchases also include 50% condominium expenses, while freehold leases do not.