

BROKER

PROFESSION



WORKING BEHIND
THE SCENES TO
HELP YOU SHINE
ON THE PUBLIC STAGE

Solid FORMS

FIGHTING ILLEGAL BROKERAGE

An Act providing **PROTECTION** and **OVERSIGHT**

**ALSO: HOW IS REAL ESTATE
AND MORTGAGE BROKERAGE
OVERSEEN IN THE REST OF
THE COUNTRY?**



IN THE FIELD

Changing agencies
successfully

**ANSWERS TO YOUR
QUESTIONS**



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The advertisements published in it are intended for real estate and mortgage professionals. They are not the expression of any opinion, position or action of the OACIQ, whose main mission is to protect the public according to the Act.

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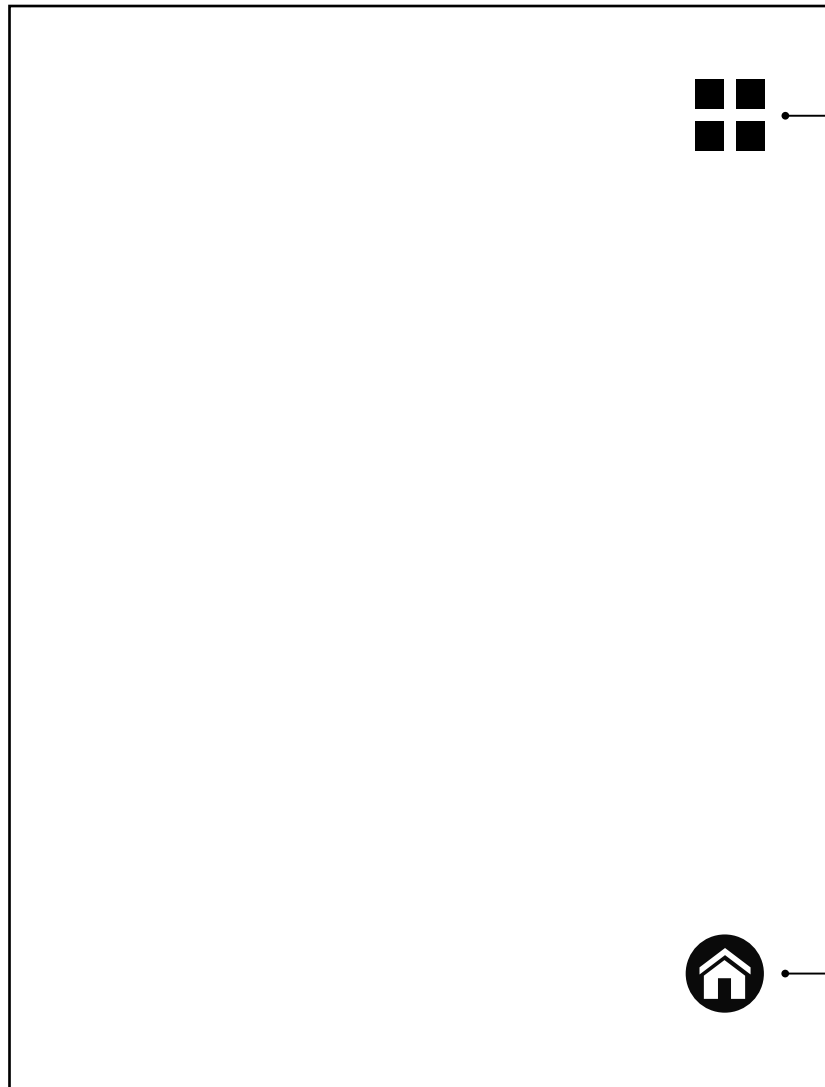
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M^e Jean-François Savoie and M^e Karoline Khelfa,
From the OACIQ Legal Department

HOW TO

How to use the features of our publication as well as an explanation on our new icons



Click this icon to return to the main page of the article

Touch screen to show the main menu bar and access the magazine's *Summary* by clicking on this icon



Article



Photos



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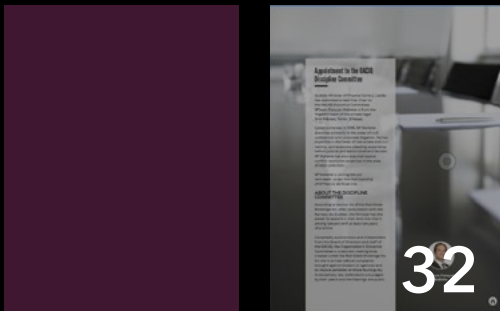
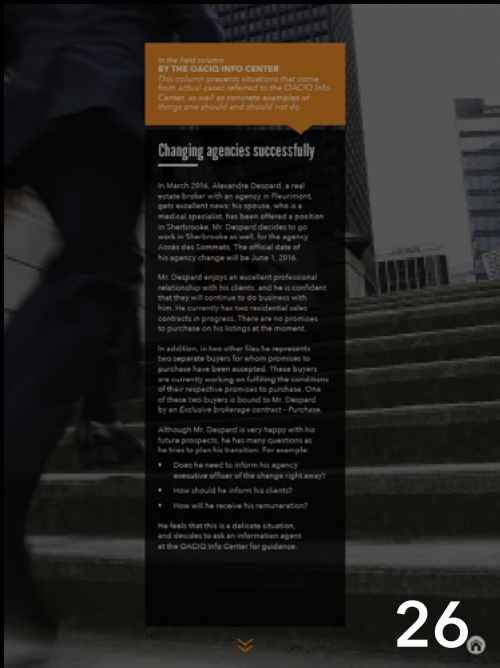
Audio tape



Link



Additional content



SUMMARY

BETWEEN US 6

Dossier

WORKING BEHIND THE SCENES
TO HELP YOU SHINE 10

IN THE FIELD column 26

APPOINTMENT TO THE DISCIPLINE
COMMITTEE 32

Between us

Because public trust is a must

Do you trust your doctor? Your dentist? There is no denying that working with a professional requires a minimum of trust.

The same applies to consumers who do business with a real estate or mortgage broker.

Obtaining that trust – and preserving it – is the responsibility of every member of our profession. Out in the field. In every action we take. And the vast majority of us do a good job of it! But it's precisely because we put so much effort into this that it's so frustrating when certain individuals betray that trust. In such cases, you have to be glad there are people whose role is to take action against those who commit acts that are harmful to our profession. That is the mandate of the OACIQ Litigation Department.

Working in tandem, the lawyers from the Legal Affairs Department play an equally essential, albeit lesser-known, role: these professionals support the OACIQ by validating all its processes from a legal standpoint. For example, these are the people who helped draft the OACIQ's response to the government's five-year Report on the application of the *Real Estate Brokerage Act*. They also play a large part in ensuring that the Organization's texts are reliable and its forms complete. Nobody's perfect, but together we work at it, because that is the price to pay to gain the public's trust.

To find out more about the role of these two departments, I invite you to read ***the Dossier*** we prepared in this issue. Believe me, you will be as pleasantly surprised as you were with the Dossier in the last issue on the OACIQ Inspection Department. Throughout 2016, we will continue to familiarize you with the Organization and all the passionate people who work there.

Enjoy the read, and all the best going forward!



Serge Brousseau
Chairman of the Board of Directors
OACIQ



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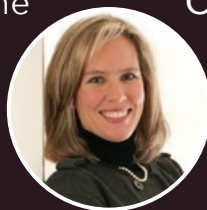
Working behind the scenes to help you shine on the public stage



They work in the shadows to light your professional path. They are seldom seen, yet it is thanks to them that your tools, guides, forms and other materials are designed in accordance with the rules. And by pursuing those who cheat, they play a key role in maintaining your credibility with the public.

For the first time, we are shining the spotlight on the essential but little-known activities of the professionals who work in the departments, under the oversight of VP M^e Anaïk LeGoff.

An enlightening overview.



DESIGN A BROKERAGE
FORM



ELSEWHERE
IN CANADA



QUESTION
FROM A BROKER

LUC, Director of the OACIQ
Legal Affairs Department



These legal affairs professionals are constantly solicited to answer one recurring question...

The Legal Affairs Department

IS IT LEGAL?...

If they worked in the transportation industry, they would be the ones designing roads and signage to help you get to your destination quickly and safely while abiding by the rules of the road. They act as your bridge between the Act, the regulations, and your practice.

Amid the jungle of sections that make up the Act, they also act as legal compasses who, day after day, help the Organization and the profession stay the course. They play a support role that is essential, even if often in the background. Let's lift a corner of the veil on these legal pathfinders!

THE PATHFINDERS

Giving one's opinion: on the face of it, nothing is easier. But when this opinion has tangible consequences on the practice of thousands of brokers, the drafting of clauses and contracts, and the protection of the public, it's quite a different story!

This pressure is the daily lot of the team of lawyers from the Legal Affairs Department, under the direction of M^e Luc Pelletier. They are responsible for dealing with any legal matter that does not fall under the responsibility of the Litigation Department (see **article** in this issue). They are involved in the drafting of forms, guides, memorandums, clauses, draft regulations, etc.

These professionals are constantly solicited by individuals and groups alike to answer one recurring question: Is this legal? Let's see what Luc Pelletier, the energetic Director of this Department, has to say about this.





"Each time a legal question is asked, someone from our team examines it. Even though our Department is not in direct daily contact with brokers, the link is still very strong, because we are at the heart of the Organization's activities."

QUERIES FROM EVERY CORNER

The Department responds to daily queries from all OACIQ departments, which in turn are in contact with brokers and the public: the OACIQ Info Center, the Basic Training and Examinations Department, Continuing Education, Inspection, Communications, etc. "So indirectly we help guide brokers, and in turn they can provide better advice to their clients," explains M^e Pelletier.

All queries are handled with the same care: "Whether they come from inside or outside, we always make sure our answers are in accordance with the Act, of course, but also that they are pragmatic. Our legal work is the basis, but the solution we come up with must be practical so that, for instance, brokers can apply it in the field in order to protect the public."

FORMS AND GUIDES

The Legal Affairs Department helps draft forms by supporting the work of the Training and Professional Practices Committee (TPPC), which is made up of members of the OACIQ Board of Directors. Here again, the Department's approach is not purely legalistic, but also pragmatic. (On this topic, make sure to read the article **Creating forms: quite the contract!** in this issue.)

Like other OACIQ bodies, the Department also helps write the Professional Practices Guides.

And finally, the Department is there to take part in brokerage practice changes. "Brokerage is evolving!" says M^e Pelletier. "This is why we keep our eyes open, to make sure we constantly adapt the regulations to the reality in the field. Our Department's legal solutions will continue to reflect this evolution," concludes its Director.



TO LEARN MORE, SEE:

- The Professional Practices Guide entitled *Opérations de courtage: recourir aux règles de droit*
- The *Real Estate Brokerage Act* and the regulations thereunder



ISABELLE, Lawyer
Legal Affairs Department



CREATING FORMS: QUITE THE CONTRACT!

Every day you use OACIQ forms designed exclusively for your real estate or mortgage brokerage practice. But before they end up in your hands or on your screen to help you act professionally, they have gone through many validation stages to ensure they are clear, thorough, and usable. That can be a tall order!

FORMS REQUIRE TEAMWORK

For the OACIQ, providing forms to brokers is an excellent way to optimize practices in the field, and therefore to protect the public. Creating forms is nothing new at the OACIQ. The Association des courtiers et agents immobiliers du Québec had been issuing forms since 1994. After the coming into force of the new *Real Estate Brokerage Act* in 2010, many of these forms were updated. (See the box **2012, the test**)

This work is largely the responsibility of the Training and Professional Practices Committee (TPPC). This committee is made up of members of the OACIQ Board of Directors, most of whom are brokers. They are assisted by specialists like M^e Isabelle Charlebois from the Legal Affairs Department. Each form project is scrutinized, assessed and weighed by a multitude of stakeholders.

The draft form is then submitted to the Organization's Board of Directors, followed by a consultation process with other stakeholders, such as the Chambre des notaires. The form is adjusted based on the comments collected, then sent for approval in its final form by the Board of Directors. Only then does it reach your practice!





MORE TOOLS FOR BROKERS

Creating forms is a futile effort unless they are clearly understood and used. To make sure this is the case, the Legal Affairs Department has created explanatory leaflets - essentially instructions on how to use the form. These leaflets are concisely worded, "because we don't want to drown the broker in too much information," explains M^e Charlebois.

The Interactive tool on forms is also an excellent means by which we help brokers familiarize themselves with each form. And finally, the Professional Practices Guide entitled *Immeubles: Effectuer les opérations* contains clear explanations on the use of the most common forms.



FORMS ARE HERE TO STAY

Forms are here to stay, and eventually they will be exclusively in electronic format, which will greatly facilitate the updating process.

Also, following a prolific period in the last several years, there will be fewer new forms in the mid-term, according to the forms specialist. "However, there will be a revision step, to adapt the forms to evolving practices", she concludes.

2012, THE TEST

With the advent of the new *Real Estate Brokerage Act* in 2010, existing forms had to be adapted and new ones had to be created. Between 2010 and 2012, when the new forms started being used, M^e Isabelle Charlebois collaborated with the OACIQ Forms Committee (today called the Training and Professional Practices Committee (TPPC)). This committee was at the heart of the Organization's efforts to ensure a smooth transition in the field.

"Because ACAIQ forms were designed before the 2010 Act, some aspects were inaccurate or incomplete. We created the Transitional Annex to help brokers comply with the new obligations, including identity verification. After that, we updated the existing contracts," recalls M^e Charlebois.

To make sure contracts were appropriately evolved, the OACIQ asked brokers to give their opinion on the changes they wanted to see. This resulted in co-ownership clauses being removed from residential contracts, and new forms being created especially for this type of property.



TO LEARN MORE, see the following pages on synbad.com:

- Interactive tool on forms
- List of mandatory and recommended forms
- FAQ on forms
- Professional Practices Guide *Immeubles: Effectuer les opérations*
- Subscription to electronic forms InstanetForms™



How is a brokerage form designed?



Step 1

The Legal Affairs Department responds to a need expressed by brokers by generating a draft form.

Step 2

The draft is submitted to the Training and Professional Practices Committee (TPPC) for evaluation.



Step 3

The draft is submitted to the OACIQ Board of Directors.

Step 4

The Board submits the project to third parties for consultation.



Step 5

The draft is finalized, adopted by the Board, and added to the InstanetForms™ platform.

Step 6

Brokers now have a new tool available to them!



“The number of disciplinary cases remains low, compared to the high volume of real estate transactions that take place each year.”

KAROLINE, Director
Litigation Department

The Litigation Department

AN EXEMPLARY DISCIPLINE

Their job can be thankless, but they do it for the right reasons: to improve practices, to protect the public, and to uphold the reputation of real estate and mortgage brokers. A look at the exemplary work of a team of lawyers who are used to pleading our case!

M^e Karoline Khelfa is the Director of the OACIQ Litigation Department. She oversees the activities of seven lawyers. “One of them works exclusively on illegal practice cases,” she explains. “All the others are mainly involved with disciplinary law.” Disciplinary law? In other words, they represent the Office of the Syndic before the OACIQ Discipline Committee.

How does a disciplinary case land in their backyard? “First, the Office of the Syndic investigates the case in response to a request for assistance. Once the investigation is complete and a complaint is warranted, the file is referred to us. Our lawyer reviews the evidence collected and, if applicable, drafts the complaint that will be submitted to the Discipline Committee,” explains M^e Khelfa.





VARIOUS CASES

In the area of real estate brokerage, the cases handled by the Litigation Department are varied. "We see all kinds of things," confirms M^e Khelfa. Among other things: prices inflated using false promises to purchase in order to obtain mortgage financing, which do not reflect the actual selling price agreed to between the parties; or the concealment of factors of which the broker is aware and that may unfavourably impact the parties or the transaction (indoor growing of cannabis, water infiltration, violent death, etc.).

In the area of mortgage brokerage, the most common disciplinary complaints involve the sending of false documents: "For example, it's when a mortgage broker receives documents that turn out to be forged from someone other than the borrower, and forwards them to the lending institution without making proper verifications."

Although rare, these practices do impact the image of the profession, which is why it is important that they be brought to the attention of the **OACIQ** Discipline Committee. By defending good practices, M^e Khelfa feels that they are helping maintain the added value for consumers of doing business with a broker for their transactions. "By doing this we help brokers preserve the trust which the public has in our profession," she concludes.





ILLEGAL PRACTICE

The other main activity of the Litigation Department consists in taking legal action against those who engage in brokerage activities without being duly licensed by the OACIQ. Why act in this area? "If the Act exists to oversee brokerage activities, it is because the government deems it necessary to protect the public.

Conversely, someone who does not do business with a broker does not benefit from this protection. By intervening, we make sure that those engaging in brokerage activities are subjected to the law," explains M^e Khelfa.

Before ending up in the Litigation Department, illegal practice cases go through the same process as disciplinary files: the Office of the Syndic receives a request for assistance; an investigator looks into the case; if he feels that legal action is warranted, he refers the file to Litigation. "The file is then reviewed by the lawyer assigned to the case, who will decide whether to lay charges before the Court of Québec."

Common cases: "We see more and more offenders who offer brokerage services to buyers looking for mortgage financing. On the real estate side, we see an increasing number of websites leading consumers to believe that the people are authorized to engage in brokerage acts," adds M^e Khelfa.

In addition, brokers who encourage illegal brokerage by cooperating with non-licence holders are also targeted: "The Office of the Syndic files disciplinary complaints against these brokers for encouraging the illegal practice of the profession," explains M^e Khelfa.

AND WHAT ABOUT THE OWNER ASSISTANCE SERVICES?

The growing emergence of various assistance services that offer to sell or lease properties or search for mortgage products, and believe themselves beyond the reach of the *Real Estate Brokerage Act*, is a source of concern for the Organization.

As you know, in 2013 the OACIQ filed a motion for declaratory judgment to determine if the activities of one of these enterprises, DuProprio, constituted brokerage activities within the meaning of the *Real Estate Brokerage Act*. What is the status of this case? In October 2015, DuProprio filed a motion to have the OACIQ's motion thrown out. "On January 29, 2016, the Québec Superior Court confirmed that the OACIQ's civil action is justified. The case will take its course." specified M^e Khelfa.

Offenders are liable to fines of \$1,500 to \$20,000 for a natural person (s. 125 of the *Real Estate Brokerage Act*), and of \$3,000 to \$40,000 for a legal person (company). Fines are doubled in case of repeat offence.

M^e Khelfa is very proud of the success rate of the criminal proceedings brought in illegal brokerage cases: "Acquittals are very rare, and the desired deterrent effect is usually achieved," she states.

Clearly, the lawyers in this department are very active, and the profession understands that in order to ensure public protection, it is in its best interest that they remain so!



FOR MORE INFORMATION, see the following articles on synbad.com:

- *Illegal practice: identified trends and tools to counter them*
- *Identifying and reporting illegal brokerage*
- *Heavy fines for carrying out the activity of an agency and broker illegally*





JEAN-FRANÇOIS, Legal counsel
Legal Affairs Department



Revision of the *Real Estate Brokerage Act*: the OACIQ's recommendations

THE BRIEF TALE OF A FORWARD-THINKING BRIEF

You may recall that in June 2015, the Québec Ministry of Finance tabled its five-year Report on the application of the *Real Estate Brokerage Act*. The Legal Affairs Department was actively involved throughout 2015 in the drafting of a brief on behalf of the OACIQ to inform the government's discussion and respond to this report.

Jean-François Savoie is a legal counsel in the OACIQ Legal Affairs Department. As such, he has helped draft a vast number of analyses, forms, guides and regulatory amendments since he came on board almost 18 years ago.

In 2015, most of his energy was undoubtedly devoted to the five-year revision process of the *Real Estate Brokerage Act*.



A CONCERTED EFFORT

Preparing the OACIQ's brief was a colossal undertaking that involved many people, from Board members to brokers themselves.

Anxious to cover every angle, the members of the Organization's Board of Directors initiated a rigorous reflection, analysis and recommendation process for the future, to which M^e Savoie greatly contributed, together with his colleague M^e Luc Pelletier, Director of Legal Affairs (see [the article](#)).

For months, these experts settled down to the task of preparing a detailed report on the OACIQ's achievements since the coming into force of the *Real Estate Brokerage Act*, and of assessing the best ways to continue ensuring public protection. Determined to leave nothing to chance, they scrutinized practices and regulations used in other provinces and within similar organizations, and consulted with numerous stakeholders from the real estate and mortgage fields.

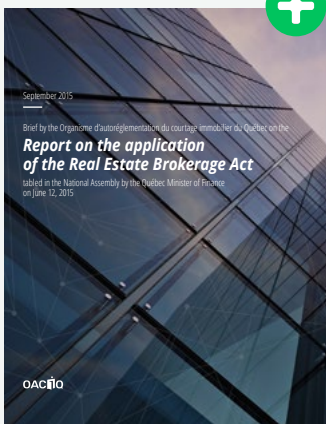
From this work, two issues soon emerged as priorities:

- Defining the scope of what constitutes a real estate or mortgage act;
- Maintaining the Organization's self-regulatory structure while enabling it to better fulfill its mission.

Several more issues examined by M^e Savoie and others made it into the OACIQ's brief, including the need to oversee building inspectors and co-ownership property managers.

The Ministry of Finance's conclusions following the publication of its Report and the various briefs it received in response remain to come. Something to watch for this year!

In the meantime, we encourage you to *click below* to read the OACIQ's brief, or the summary or highlights thereof.



REAL ESTATE BROKERAGE AND OVERSIGHT IN THE REST OF THE COUNTRY

The definition of what constitutes a real estate or mortgage brokerage activity varies by province, but there are many points in common, explains Jean-François Savoie, legal counsel with the OACIQ Legal Affairs Department. To find out more on the notion of brokerage act in other Canadian jurisdictions, see Appendix 7 of the ***Brief by the OACIQ on the Report on the Application of the Real Estate Brokerage Act*** (p. 103).

All Canadian provinces and the three Canadian territories regulate real estate brokerage; eight provinces regulate mortgage brokerage and one - New Brunswick - will soon do so (only Prince Edward Island and the three territories will then have no oversight in this field).

WHO OVERSEES WHAT

Although real estate brokerage is regulated in all provinces and territories, the type and degree of oversight vary. "Some, like Alberta, British Columbia, Ontario and Nova Scotia, have organizations similar to ours, that is a self-regulated body charged with enforcing provincial legislation on real estate brokerage," explains M^e Savoie. In other provinces and territories, such as Manitoba and Saskatchewan, a government agency - a division within a department for example - oversees real estate brokerage.

What about mortgage brokerage? "Only Alberta and Québec have a self-regulated body that oversees both mortgage and real estate brokerage." Elsewhere, mortgage brokerage is overseen by a separate government agency or has no oversight at all.



OVERSIGHT OF REAL ESTATE AND MORTGAGE TRANSACTIONS IN CANADA

WOULD YOU LIKE TO BE MORE KNOWLEDGEABLE ABOUT THE *REAL ESTATE BROKERAGE ACT* AND ITS REGULATIONS, AS WELL AS OTHER LEGISLATION GOVERNING YOUR PRACTICE?

The following are training activities designed especially for you, taken from the directory of training activities in *synbad.com*:



Éthique et conduite professionnelle (French only)

Professional conduct, the cornerstone of your daily practice

Les cas particuliers en droit immobilier (French only)

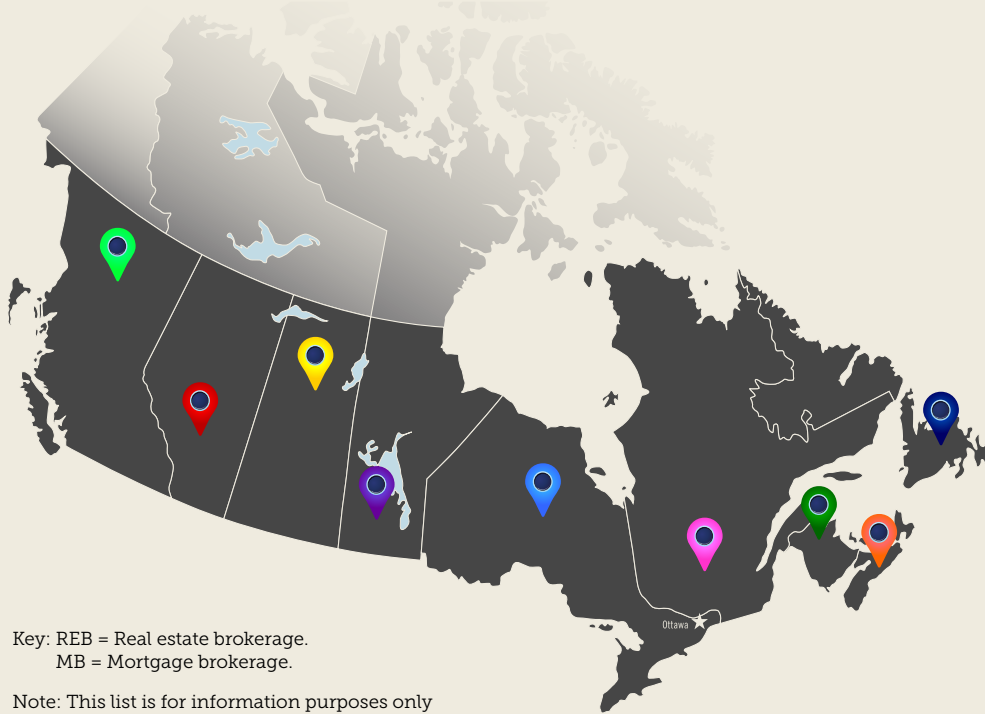
La jurisprudence récente (French only)

Les représentants légaux et les transactions immobilières (French only)

Social media: how laws influence your content

La loi 122 et l'entretien des façades (French only)





Key: REB = Real estate brokerage.
 MB = Mortgage brokerage.

Note: This list is for information purposes only
 and is not exhaustive.

For more information, see Appendix 6 (p. 102) and 8 (p. 107) of the [Brief by the OACIQ on the Report on the Application of the Real Estate Brokerage Act](#).



British Columbia – CI : Real Estate Council of British Columbia
 CH : Financial Institutions Commission



Alberta – REB and MB: Real Estate Council Alberta



Saskatchewan – REB: Saskatchewan Real Estate Commission
 MB: Financial and Consumer Affairs Authority



Manitoba – REB and MB: The Manitoba Securities Commission



Ontario – REB: Real Estate Council of Ontario (RECO)
 MB: Financial Services Commission of Ontario



Québec – REB and MB: OACIQ



New Brunswick
 REB: Financial and Consumer Services Commission and New Brunswick Real Estate Association
 MB: Financial and Consumer Services Commission



Nova Scotia – REB: Nova Scotia Real Estate Commission
 MB: Access Nova Scotia



Newfoundland and Labrador – REB: Service NL – Real Estate and Mortgage Broker Regulation
 MB: Financial Services Regulation Division

At the Canadian level:

MBRCC

The Mortgage Broker Regulators’ Council of Canada (MBRCC) is an inter-jurisdictional association of **mortgage broker regulators** in Canada. The mandate of the MBRCC is to improve and promote the harmonization of mortgage broker regulatory practices across Canada to serve the public interest.

RERC

Real Estate Regulators of Canada (REREC) is an organization that brings together the provincial bodies that oversee real estate brokerage activities, in order to coordinate their action and harmonize their best practices.





QUESTION FROM A BROKER

AND ANSWER FROM THE OACIQ INFO CENTER



QUESTION FROM FADI KAOUK
Chartered Real Estate Broker, AEO

(Audio available in French only)



OACIQ INFO CENTER

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DU COURTAGE IMMOBILIER DU QUÉBEC

NOTE – Le présent formulaire doit être utilisé lorsqu'un co

1. IDENTIFICATION DES PARTIES

NOM DE L'AGENCE OU DU COURTIER

agence immobilière courtier immobilier agissant

NUMÉRO DE L'ÉTABLISSEMENT, NUMÉRO DE TÉLÉPHONE, COURRIEL

REPRÉSENTÉ PAR

NUMÉRO DE PERMIS

exerçant ses activités au sein de la société par actions s

NOM, ADRESSE, NUMÉRO DE TÉLÉPHONE ET COURRIEL DU VENDEUR 1 ET, LE CAS ÉCHÉ, DE SON REPRÉSENTANT

1.1 La vérification de l'identité du VENDEUR a été effectuée

VENDEUR 1 ou son REPRÉSENTANT

Permis de conduire Carte d'assurance
 Carte de résident permanent Passeport
 Carte de citoyenneté canadienne Certificat de naissance

NUMÉRO DE RÉFÉRENCE

LEU DE DÉLIVRANCE

Date de naissance: ANNÉE MOIS JOUR

Profession ou principale activité:

1.2 Dans le cas où le VENDEUR est représenté, indiquer:

Nature de la relation entre le VENDEUR 1 et son représentant

LIEN AVEC LE VENDEUR (EX. MANDATAIRE, LIQUIDATEUR D'UNE SUCCESSION OU D'UNE

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In the field column

BY THE OACIQ INFO CENTER

This column presents situations that come from actual cases referred to the OACIQ Info Center, as well as concrete examples of things one should and should not do.

Changing agencies successfully

In March 2016, Alexandre Despard, a real estate broker with an agency in Fleurimont, gets excellent news: his spouse, who is a medical specialist, has been offered a position in Sherbrooke. Mr. Despard decides to go work in Sherbrooke as well, for the agency Accès des Sommets. The official date of his agency change will be June 1, 2016.

Mr. Despard enjoys an excellent professional relationship with his clients, and he is confident that they will continue to do business with him. He currently has two residential sales contracts in progress. There are no promises to purchase on his listings at the moment.

In addition, in two other files he represents two separate buyers for whom promises to purchase have been accepted. These buyers are currently working on fulfilling the conditions of their respective promises to purchase. One of these two buyers is bound to Mr. Despard by an *Exclusive brokerage contract - Purchase*.

Although Mr. Despard is very happy with his future prospects, he has many questions as he tries to plan his transition. For example:

- Does he need to inform his agency executive officer of the change right away?
- How should he inform his clients?
- How will he receive his remuneration?

He feels that this is a delicate situation, and decides to ask an information agent at the OACIQ Info Center for guidance.





ANSWERS

The first thing the information agent tells him is that the best practice for a broker is not to change agencies while he has transactions in progress. He should inform his agency executive officer as soon as possible, because the agency is the one with the obligation to send the agency change notices to selling clients, so that they may exercise their options. If the agency does not do so, Mr. Despard will have to send the notices to his clients, but he must not do so without his agency's knowledge. In addition, when discussing the change with his current executive officer, Mr. Despard can agree with him on the terms of his departure.

HERE ARE MORE DETAILED ANSWERS BASED ON A FEW COMMON SITUATIONS.



Residential brokerage contracts to sell without promises to purchase in progress

NOTICES TO BE SENT

The information agent mentions that the sellers must be informed in writing prior to the agency change that they have the option to:

- continue to do business with their current broker (Mr. Despard) at his new establishment;
- continue to do business with the current agency (with another broker who will be appointed to their file); or
- terminate the brokerage contract.

The clients must make their choice by the date of the agency change at the latest, in this case June 1, 2016. Failing this, their contract will be automatically cancelled, in accordance with the applicable clauses (section 10 of the residential form *Exclusive brokerage contract - Sale*).

If the selling clients reply in time, Mr. Despard will not have to have them sign an *Amendments* form or a new brokerage contract to sell. If they choose to follow him to his new agency, they will be bound to the agency on behalf of which he will be acting, according to the same terms.

A copy of the brokerage contract records will be given to Mr. Despard for his new agency (the initial agency will keep a copy). If so requested by the clients, the agency to which they were initially bound must also give them a copy of their record.





Residential brokerage contracts to sell without promises to purchase in progress

REMUNERATION

If the clients decide to continue doing business with the current agency (and therefore another broker), Mr. Despard may still be entitled to remuneration: it depends on what was agreed with his agency executive officer in his hiring contract or prior to his departure. An agency executive officer is allowed to agree to remunerate a broker leaving the agency for brokerage contracts that were in force while this broker was authorized to act on the agency's behalf.



Written promises to purchase in progress for residential properties

NOTICES TO BE SENT WHEN **NO** BROKERAGE CONTRACT TO PURCHASE (BCP) HAS BEEN SIGNED

In this situation, the information agent mentions that, out of courtesy, the buyer should be notified in writing prior to the agency change that he has the option to:

- continue to do business with the broker at his new establishment;
- continue to do business with the agency (another broker will be appointed to the buyer); or
- cease doing business with the broker or the agency.

The transaction documents will be retained by the agency identified in the promise to purchase. If the buying client decides to follow the broker to his new agency, a copy of the document will have to be given to the new agency.

The information agent adds that the seller's broker must also be notified of the agency change, as well as any other person involved in the transaction (e.g. notary, building inspector).





Written promises to purchase in progress for residential properties

NOTICES TO BE SENT WHEN A BROKERAGE CONTRACT TO PURCHASE (BCP) HAS BEEN SIGNED

In the case of the buyer to whom Mr. Despard is bound by a brokerage contract to purchase, Mr. Despard will have to notify him in the same way as the sellers in the procedure described [here](#). Thus the buyer must be informed in writing prior to the agency change that he has the option to:

- continue to do business with their current broker (Mr. Despard) at his new establishment;
- continue to do business with the current agency (with another broker who will be appointed to them); or
- terminate the brokerage contract.

The clients must make their choice by the date of the agency change at the latest, in this case June 1, 2016. Failing this, their contract will be automatically cancelled, in accordance with the applicable clauses (section 9 of the residential form *Exclusive brokerage contract - Purchase*).



REMUNERATION

The agency on whose behalf the broker was acting (with or without a BCP) at the time the promise to purchase was drafted could be obliged to pay him remuneration. It depends on what was agreed in his hiring contract with his agency or on any agreement made prior to his departure.



FOR MORE INFORMATION , CHECK THE FOLLOWING ARTICLES ON SYNBAD.COM:

- *Notice - Agency or status change*
- *Who owns an agency's brokerage contracts*
- *13 topics of interest to AEOs, question 6*
- *Commercial real estate brokerage: when a broker leaves an agency*
- *FAQ - Real Estate Brokerage Act, question 12*



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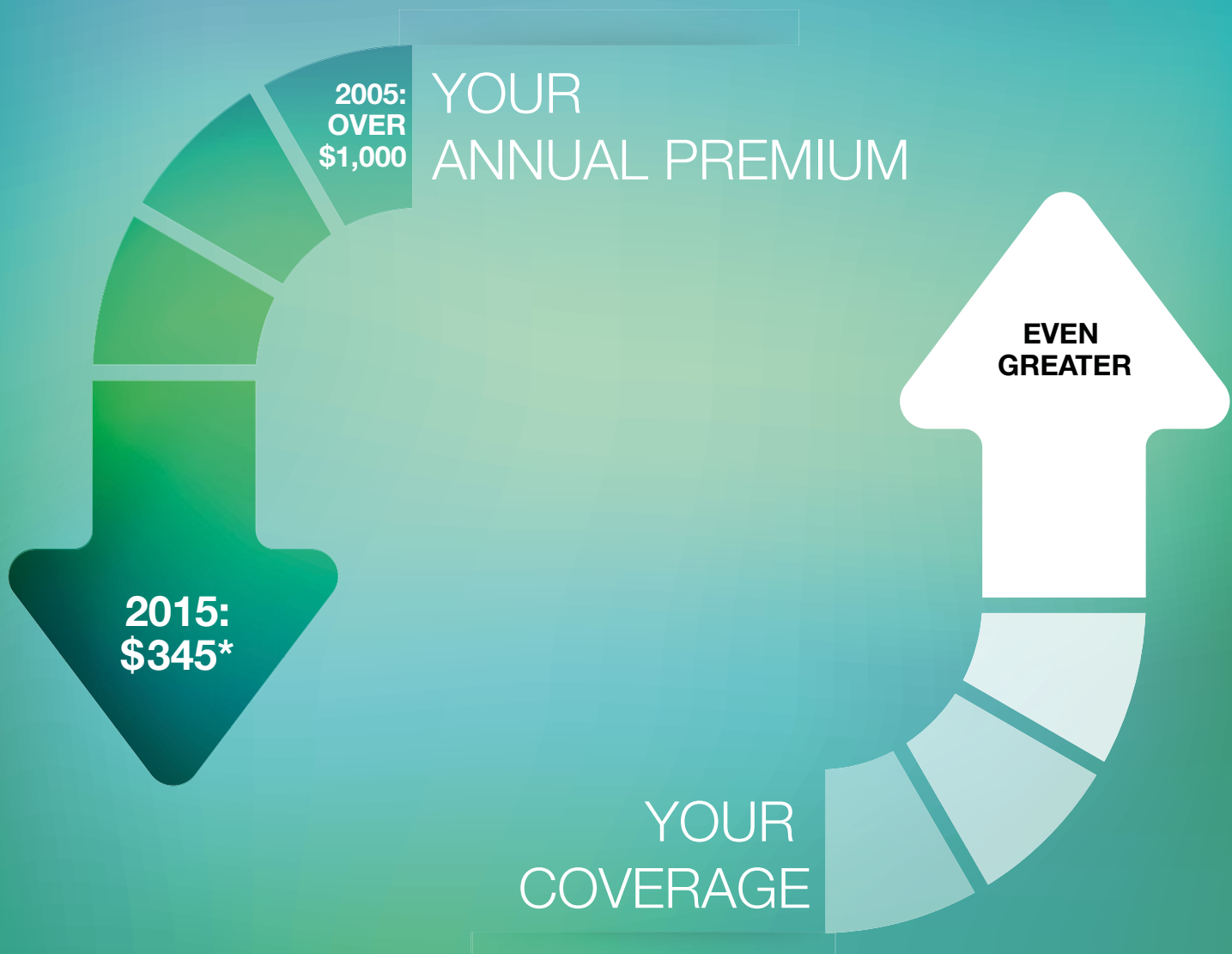
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Appointment to the OACIQ Discipline Committee

Québec Minister of Finance Carlos J. Leitão, has appointed a new Vice-Chair to the **OACIQ** Discipline Committee: M^e Jean-François Mallette is from the litigation team of the private legal firm Prévost, Fortin, D'Aoust.

Called to the bar in 1998, M^e Mallette practices primarily in the areas of civil, commercial and corporate litigation. He has expertise in the fields of real estate and civil liability, and extensive pleading experience before judicial and administrative tribunals. M^e Mallette has also acquired special conflict resolution expertise in the area of debt collection.

M^e Mallette is joining the current team, under the chairmanship of M^e Patrick de Niverville.

ABOUT THE DISCIPLINE COMMITTEE

According to section 94 of the *Real Estate Brokerage Act*, after consultation with the Barreau du Québec, the Minister has the power to appoint a chair and vice-chairs among lawyers with at least ten years of practice.

Completely autonomous and independent from the Board of Directors and staff of the **OACIQ**, the Organization's Discipline Committee is a decision-making body created under the *Real Estate Brokerage Act*. Its role is to hear ethical complaints brought against brokers or agencies and to impose penalties on those found guilty. In disciplinary law, defendants are judged by their peers and the hearings are public.



**M^e Jean-François
Mallette**



DO YOU HAVE COMMENTS ON **Profession BROKER?**



Follow the example of broker
LINDA DE GUISE:

"Concerning the article comparing the OACIQ to a policing body [in the last issue of Profession BROKER], I have always found the OACIQ staff to be professional and eager to help. Any broker or agency who thinks of you as the police is misguided. You are there to assist us, help us learn and protect us and the general public in our transactions."

WRITE TO US!

communications@oaciq.com

