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A NOTE OF CAUTION

Profession Broker is a publication for real estate professionals, licence holders of the Organisme d'autoréglementation du courtage immobilier du Québec (OACIQ). It covers various topics related to the application of the Real Estate Brokerage Act and its regulations, including legal and ethical issues related to the practice of real estate brokerage and the real estate market.

Any advertising appearing in this publication is intended for real estate brokerage professionals and does not in any way reflect the opinions, positions or actions of the Organisme d'autoréglementation du courtage immobilier du Québec, whose primary mission under the law is the protection of the public.

NEW FORMS: your daily work tool

*The process of Consultation on new forms started few weeks ago is conducted in an atmosphere that favours ideas' exchange and debate. This consultation process, whose proceedings were explained in the article concerning the **Consultations on the new forms: By taking part, you will contribute to the advancement of your professional practice**, published in January edition of your Profession Broker Newsletter, was established for your intention. Its aim is to promote the progress of your professional practice, and to enable you to comment on these tools that you will be using every day.*

A decisive impact on your practice

Therefore, your participation is very important. Taking this opportunity to comment on the new forms, you become actively involved in the future of your profession. You will help us develop forms that will best suit your needs and your professional reality.

Consultations held during two different times: a new approach

The consultation on the new forms held initially online from March 9th to March 25th is carried on live at different locations across Quebec from April 12th until May 5th. At the time of writing these lines, live consultations have just started.

Continued on **page 2**



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Cont'd from **the front page**

Online consultation: a great participation rate

Many of you took time to participate in this online consultation: in fact, there are more than 15 000 consultations on the blog and about 1 400 comments on the different suggested amendments.

We would like to thank all of you for taking time to read our proposals concerning the new forms and comment on them. Many remarks addressed to us were very constructive. They are the subject of interesting discussions during the live consultation currently taking place.

Conducting live consultations

During these sessions, animators focus on the explanations regarding the big changes made to main forms, compared to current forms. Participants can comment on the suggested amendments as well as on the trends that have not obtained a consensus during the online consultation on the blog.

To consult the content of the blog

Remember that it is always possible to consult the content of the blog. For this purpose, you can learn about the current forms and the new forms, as well as explanatory notes relating to the amendments that we are proposing to you, and the comments' compilation table. After the live consultations, this table will be enriched by comments from the discussions that took place during these consultations.

You will also find in it the regulation draft on contracts and forms, and the frequently asked questions that answer many of your questions.

You can consult the blog at: <http://oaciq.com/en/user/login?destination=blog>

The featured subjects of the online consultation

Some amendments that we proposed in order to respond quickly to your needs have generated several comments on your part during the online consultation. Below, you can learn about the featured subjects and the reasons behind the suggested amendments.

1. 8 1/2 x 11 format of forms and some forms in two parts (legal content and data capture)

1.1 8 1/2 x 11 format forms

What is it about?

It is about proposing all forms in 8 1/2 x 11 format.

Reasons behind the choice of this format

- The 8 1/2 x 14 format is less and less used (ex.: courts require that legal documents should be produced in 8 1/2 x 11 format)
- Difficulty in finding NCR papers in 8 1/2 x 14 format for those who work with electronic forms and want to print on this type of paper
- Facilitate digitization, printing and transmission by fax

1.2 Forms in two parts

What is it about?

It is about the most voluminous forms (ex.: brokerage contract and promise to purchase), the forms in two parts, one for legal content re-grouping all clauses of the contract and the other for "data capture" that provides the necessary space to enter required information, if applicable. The two parts are invalid if they are not attached to each other.

What are the reasons behind the proposal of forms in two parts?

- We want to conciliate the inclusion requests of the clauses that are most commonly used (ex.: financing and inspection clauses of the promise to purchase, and the identity verification clause relating to brokerage contract) with the requests concerning adding writing space
- By including these different amendments, the new forms become more voluminous
- Forms in two parts enable the broker to complete the "data capture" portion allowing the client to follow-up on the "legal content".

Info OACIQ

Telephone Information Centre

The information agents in our Info OACIQ Centre are there to answer your questions and guide you to our various services.

Please contact the Info OACIQ Information Centre at **450 462-9800** or **1 800 440-7170** between 9:00 a.m. and 4:00 p.m. on Monday, Tuesday, Thursday and Friday, and between 10:00 a.m. and 4:00 p.m. on Wednesday.

You can also reach the Centre by email at info@oaciq.com, making sure to include your complete contact information so an information agent can call you back. ●

2. Brokerage contract and Promise of purchase Chiefly residential immovable excluding divided and undivided co-ownership

2.1 Creation of co-ownership forms

What is it about?

The mentions concerning immovables occupied in divided and undivided co-ownership have been removed from the new forms. Following what was proposed, they will be rather included in the new forms concerning brokerage contract and promise of purchase contract meant specifically for this type of immovables.

Reasons of this amendment

- Create forms adapted to the specific context of co-ownership (ex.: immovable's description, specific documents to be provided, etc.);
- Ensure that each form contains only the clauses relevant to the specific transaction.

3. Clause 11.4 – Distribution of proceeds of the sale and agency or broker remuneration

What is it about?

The buyer and the seller irrevocably instruct the acting notary to pay from the proceeds of the sale:

- The remuneration due to the listing broker (as now).
- The remuneration due to the collaborating broker, according to the instructions of the listing broker
- The remuneration due to the broker bound to a buyer by a brokerage contract to purchase, whether the seller is represented by a listing broker or acting himself (FSBO)

Reason behind this amendment

- The purpose of this clause is to protect the remuneration of each broker involved in a transaction by ensuring that he is paid from the proceeds of the sale.
 - In the case of a sale made directly by an owner (FSBO), we make sure that the broker bound by a purchase contract will be paid without signing a brokerage contract with the seller
- Ensure that the remuneration due to each of them is paid directly by the acting notary.

These featured subjects as well as other proposed amendments will be reviewed during live consultations in order to consult participants on their preference. Your comments are welcome.

After consultations

All comments collected during these consultations will be submitted to the OACIQ board of directors in order to prepare the final version of the new forms.

Mandatory continuing education on the new forms

A mandatory continuing education activity on the subject will also be designed to enable you to master these important work tools that are yours. ●

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Current forms could remain in use until June 30, 2012

We are pleased to inform you that the Québec government has initiated the process to act on the OACIQ's recommendation to defer the effective date of the Regulation respecting contracts and forms - and therefore the use of the new forms themselves - to July 1, 2012...

As a result, the current regulations and forms will continue to apply until June 30, 2012 rather than October 31, 2011 as initially announced.

Draft Regulation to amend the Regulation on transitional measures

In order to give effect to this decision, an amendment that will come into force on May 1st, was made to the Regulation to enact transitional measures for the carrying out of the Real Estate Brokerage Act confirming that brokers could continue to use the old forms until June 30, 2012.

You may view the excerpt from the *Gazette officielle du Québec* of April 15th concerning the amendment to the Regulation on transitional measures on the OACIQ website (oaciq.com) at <https://secure.oaciq.com/sites/default/files/article/fichiers/ar-transitionalmeasures110415.pdf>

Draft Regulation respecting contracts and forms

The Draft Regulation respecting contracts and forms, aimed at replacing the current regulation, has been approved by the OACIQ board of Directors for consultation with brokers and is available on the online consultation blog on forms. Following these consultations, the Regulation may be amended to reflect the comments expressed, and submitted to the OACIQ Board of Directors for final approval. The draft will then be submitted to the government, which may approve it with or without changes.

You may view the draft Regulation respecting contracts and forms on the OACIQ website (oaciq.com) at <https://secure.oaciq.com/sites/default/files/article/fichiers/draftregulationcontracts-forms.pdf>

Reasons and considerations for extending the period to use current forms

The reasons for initially choosing the date of November 1, 2011 for the new forms to come into effect were to give us time to:

- review all of our forms;
- consult practitioners on the proposed new forms and the draft regulation to replace the current Regulation respecting contracts and forms;
- take into account the many comments and suggestions already expressed and to be expressed as part of the consultations which began March 9, 2011 and will continue until May 5, 2011;
- assess the main legal and practical impacts of the new forms on public protection and professional practices;
- develop a mandatory continuing education activity on the new forms.

Keeping the deadline of November 1, however, would not have allowed us to do all of the above and to train all agency executive officers and brokers on the new contracts and forms. By deferring this date to July 1, 2012 we will be able to make sure agency executive officers and brokers are trained before the new forms come into effect, thus ensuring better public protection. For these reasons, the OACIQ Board of Directors feels that the month of July 2012 is a better time to integrate the new contracts and forms in your practice. ●

NOTICE OF MEETING General Meeting 2011

TO ALL LICENCE HOLDERS ENTITLED TO VOTE OF
THE ORGANISME D'AUTORÉGLÉMENTATION DU COURTAGE IMMOBILIER DU QUÉBEC

MONDAY, MAY 9, 2011, 2:15 P.M.
at L'ÉTOILE BANQUE NATIONALE, in Quartier DIX30
6000 de Rome Blvd., BROSSARD • REGISTRATION on 2nd floor

FINAL AGENDA

1. Opening of meeting and declaration of quorum
2. Items pertaining to the last ACAIQ meeting
3. Deposit of the following Annual Reports:
 - 3.1 Report from the Chairman of the Board of Directors
 - 3.2 Report from the President and Chief Executive Officer
 - 3.3 Report from the Syndic
 - 3.4 Report from the Chairman of the Inspection Committee
 - 3.5 Report from the Chairman of the Discipline Committee
 - 3.6 Report from the Chairman of the Indemnity Committee
 - 3.7 Report from the Chair of the Syndic Decision Review Committee
 - 3.8 Report from the Chairman of the Licence Issue and Maintenance Committee
 - 3.9 Report from the Treasurer of the Organization
 - 3.10 Report from the Auditors, Samson Bélaïr/Deloitte & Touche s.e.n.c.r.l.
4. *Ratification of the Internal By-Law of the OACIQ
(see notice attached)
5. Questions and comments
6. Closing of Meeting



Claude Barsalou, lawyer
Secretary

Note: In accordance with section 10 of the Internal By-Law of the OACIQ, a licence holder, when attending the meeting, must show that he is the holder of a licence issued by the OACIQ, in particular by bearing a piece of identification determined by resolution of the Board of Directors, failing which the licence holder may be refused access to the meeting. For this purpose, one of the following pieces of identification may be presented: licence issued by the OACIQ, driver's licence or Medicare card.

A licence holder who is not physically present or does not physically attend the general meeting may, under certain conditions, be able to express himself in view of a decision via web conference, which shall include authentication of participating licence holders and a chat session allowing the participant, among other things, to take part in a vote by show of hands.

General Meeting 2011

General Meeting 2011

Item 4 on the agenda Ratification of the Internal By-Law of the OACIQ

In accordance with section 54 of the Real Estate Brokerage Act (R.S.Q., C. 73.2), the Organisme d'autoréglementation du courtage immobilier du Québec (OACIQ) has adopted and brought into force an internal by-law establishing its operating rules, called the Internal By-Law of the Organisme d'autoréglementation du courtage immobilier du Québec adopted by the Board of Directors of the OACIQ.

In accordance with the same section, this by-law is ratified at the following general meeting, that is to say the meeting of May 9, 2011.

Note: You may view the Internal By-Law of the Organisme d'autoréglementation du courtage immobilier du Québec adopted by the Board of Directors of the OACIQ on the OACIQ website (oaciq.com).



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On your computer screens since March 21

The OACIQ is continuing its promotional thrust!



Since March 21, 2011, the second phase of the advertising campaign launched in the fall is online for a period of six weeks.

For this phase we have decided to focus on the web for two reasons: one, to reach prospective property buyers where they are. A survey of mortgage borrowers conducted in 2010 by the Canada Mortgage and Housing Corporation (CMHC) revealed that 89% of respondents had searched online for mortgage information; and two, this will allow us to keep within the budget allocated to the campaign.

What's new this time

The 2011 advertising campaign is divided into two streams, one focusing on real estate brokerage and the other on mortgage brokerage. An advertising concept has been developed for each stream.

When the fall campaign aired, many of you provided interesting and constructive comments which were taken into account in the development of this web campaign. This is what it looks like.

Real estate stream

The objective of the real estate brokerage stream is to convince buyers and sellers to do business with a real estate broker for the purchase or sale of their property. The message will emphasize the added value provided by a real estate broker and the fact that it is the only way they can be protected when engaging in a real estate transaction.

Mortgage stream

The mortgage brokerage stream is focused on the many options that a broker can offer the client based on his needs. The objective is to convince consumers who are in the market for a mortgage loan or in the process of renewing their mortgage to do business with a mortgage broker. The message will stress the role played by the broker in negotiating the best option for his client.

Campaign format

The 2011 advertising campaign is presented using different formats (Big Box and other banner formats, skins interstitial ad) prompting surfers to click. When they do, they are taken to a microsite where they can view our various advertising messages.

For the real estate stream, we are reusing two of the four 15-second television ads that worked best when they aired in the fall, i.e. the : the expectant father and the interpreter. These are reused on the web in a pre-roll format. Pre-roll is an online video commercial format that displays the video ad for a few seconds prior to a content video. Pre-roll advertising is always used in combination with a Big Box banner; this reinforces the message by providing additional information.



Compared to a TV ad, exposure to an online video ad has been shown to generate greater brand retention. This should also apply to our ads.

We have further adapted these television commercials to reinforce the link with the profession of real estate broker. In addition to hearing the advertising message, net surfers are able to read it on the screen at the end of the video.

Advertising elements and media plan

Since March 21, 2011, the advertising elements of the campaign and the details of the media plan are available on *Synbad* by clicking on OACIQ Advertising Campaigns in the General News section, under News.

This online campaign helps us further reinforce our message to the public by eloquently illustrating the importance of using the services of a real estate or mortgage broker in order to be protected when engaging in a real estate transaction. ●

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WHY a MORTGAGE BROKER?

THE REAL ESTATE BROKER Go with an expert

GET PEACE OF MIND

WHY BUY or SELL with a broker?

Mortgage referrals: A reminder

As reported in an article published back November 2003, mortgage referrals have been ruled to constitute brokerage transactions. Many of you are compensated for referring clients to financial institutions. We would like to remind you of some of the obligations this carries under the law.

In the course of our inspection visits to agencies, we have noted that many brokers take advantage of this opportunity. However, not all brokers disclose this fact to their clients. In fact, we still see too many people who neglect to do it, or who only do it verbally. Therefore, we would like to review the main principles that apply when referring clients to financial institutions or mortgage agencies.

When is it necessary to disclose?

It is necessary to disclose if a broker obtains an advantage (monetary or otherwise) when a client does business with a financial institution to which the broker specifically referred the client. The broker is in a potential conflict of interest, because he has an “interest” in that client doing business with a given institution over another one, due of course to the “return” offered by one and not the other.

What does nature of the remuneration mean?

Remuneration, in the broad sense of the term, can take many forms. In addition to money, remuneration can consist in trips or purchase coupons granted for a given number of referrals. It can also take the form of brokerage contracts awarded by the lending institution for repossessions concerning some of its borrowers. But regardless of the nature of the remuneration, directing your clients to one lending institution over another should always be based solely on the client’s best interest (better rate or payment terms), not your own.

How does disclosure work?

It is important to know that disclosing this type of arrangement to your clients verbally is not consistent with the rules. To facilitate this task for agencies and brokers, the OACIQ has designed a form based on the new regulations. It is called DISCLOSURE OF REMUNERATION AGREEMENT OR SHARING and is available on the OACIQ website on the *Inspection forms* page, by clicking on *Inspection*. You can use it to list and identify the mortgage lenders or financial institutions with which you have arrangements. You simply need to give a copy of it to your client and to your agency, who will file it in your transaction record. This way, there is no ambiguity and the client knows exactly where he stands. Of course nothing prevents you from disclosing this in the form of a letter or even by email. The important thing is that this disclosure be done without delay, in writing, and by you.

Who must make the disclosure?

Disclosure by the mortgage or financial institution representative instead of by the broker does not meet the requirements of the Act and does not relieve the broker of his disclosure obligations. Remuneration agreements must be disclosed in writing by the broker himself, before the buyer is referred to the lending institution.

Concrete measures

In coming months, the Inspection Department will, in the course of its inspections of agencies and brokers, focus on this aspect of real estate brokerage and will reiterate this message, which appears to remain unclear to many. Action will be taken in case of repeat offences. The public’s trust in our profession is at stake. ●

References:

- Section 36 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising
- Article no. 4205 on the OACIQ website: Mortgage referral ruled a real estate brokerage activity

Refused transaction promises

A reminder on broker and agency obligations

When a transaction promise is refused or becomes null and void due to the absence of reply, several brokers have gotten into the bad habit of not forwarding the promise to purchase and other transaction documents to their agency, thus violating the provisions of the Real Estate Brokerage Act.

Because transaction promises are signed, it is important never to destroy these documents. This obligation is especially important in case of simultaneous promises to purchase, as you could be required to prove the existence of these other promises should the case be submitted to the Assistance Service or the Syndic following a complaint by one of the parties. Like all other brokerage records and registers, these must be retained by the agency for a period of six years.

It is important to remember therefore that under current regulations, as was the case in the past, brokers must forward to their agency WITHOUT DELAY all documents completed in the performance of their duties, whether or not a transaction actually takes place. Fulfilling this obligation is crucial to allow the agency to discharge its own obligations regarding the maintenance of records and registers.

How should the agency dispose of refused or unanswered transaction promises?

When the object of the transaction is an agency listing, refused transaction promises must be filed in the Record of brokerage contracts.

When the object of the transaction is not an agency listing, transaction promises that were refused or unanswered must be kept by the agency in a single record entitled "Record of refused or unaccepted transaction promises". It is not necessary, however, to enter these transaction promises in the agency's Register of transactions since there was no agreement between the parties.

The "Record of refused or unaccepted transaction promises" should not contain transaction promises that were initially accepted but later became null and void (e.g. for non-fulfillment of certain conditions within the prescribed deadline, refused mortgage application, etc.). An accepted transaction promise requires the opening of a transaction record and an entry in the Register of transactions as soon as the promise is accepted.

Just like they have an obligation to maintain their own records and registers, sub-franchised agencies must also have their own "Record of refused or unaccepted transaction promises", kept separately from that of the franchised agency.

This obligation concerns everyone!

Of course, these guidelines are not only for brokers working in residential brokerage. All other practices are also concerned, including commercial and mortgage brokerage. In mortgage brokerage, refused loan applications (with all related documents), and in commercial brokerage, refused leasing promises or other documents must also be forwarded to your respective agencies to be processed as above. In real estate brokerage, whether residential or commercial or in mortgage brokerage, all these documents are important!

Verifications are made during inspection visits to ensure that this procedure is followed by brokers and agencies. The topic is also covered in the education activity The keeping of records and registers, regularly presented by the OACIQ. ●

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Record documentation is every broker's business

The Inspection Department is receiving more and more calls from agency executive officers who are whaving trouble getting the documents they need from their brokers in order to maintain their records and registers. This echoes what is frequently being observed during the broker competency verification phase of on-site inspection visits. Do we really need to repeat this today, in 2011? Apparently, for some careless brokers, the answer is yes.

Under the Real Estate Brokerage Act, brokers have certain obligations to fulfil in the practice of their profession. Among other things, they must:

- **Verify the information** provided to the public or to other licence holders;
- **Be able to prove the accuracy** of this information ;
- **Write on any detailed description sheet** (whether or not the property is listed on a multiple listing service) including the declarations by the seller, all the information pertaining to the description of the immovable and the drafting of a transaction proposal, and any other element required by regulation;
- **Recommend** that the seller complete the form « Declarations by the seller of the immovable »;
- **Provide collaborating brokers** with all the information required to bring the transaction to fruition;
- **Verify the identity and legal capacity** of the party he represents, and of the other party if the latter is not represented;
- **Provide without delay to the agency all the information** required for the keeping and maintaining of its registers, including all brokerage contracts, all documents used in the performance of the contract, and all transaction promises and related documents.

Not only does the lax behaviour of certain brokers with regards to these obligations expose the public and other licence holders to potential risks and disputes, but it also undermines the profession. Each year the Discipline Committee renders many guilty verdicts in complaints filed against brokers who are not able to prove the accuracy of the information they provide and consequently fail in their duty to verify, inform and advise.

A FEW MUST-READ RESOURCES

The Inspection Department has produced a number of Quick Reference Guides for brokers and agencies that specifically outline what must be included in brokerage contract records and transaction records for residential, commercial, and mortgage brokerage transactions. These Quick Reference Guides are available in the Resources - Inspection section of the OACIQ website at www.oaciq.com. The OACIQ site also offers many articles on the various aspects relating to the need to verify the information provided to the public. A search by key word (verification, documentation, right of ownership restriction, co-ownership, hypothec, servitude, etc.) is quick, easy, effective, and accessible to all.

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**HOW SHOULD YOU DOCUMENT YOUR RECORDS?
WHERE CAN YOU VERIFY THE INFORMATION?**

The following list is provided as a starting point only. Where you go from there will depend on the nature of the case and the information requiring verification. The links below will take you to websites where you can get information on:

- Owner names,
- copies of ownership titles,
- declarations of co-ownership,
- indivision agreements,
- servitudes,
- hypothecs or liens,
- other restrictions of private law,
- renovated cadastre plan,
- published leases...

Online land register

www.registrefoncier.gouv.qc.ca

Identity of legal persons, directors...

Enterprise registrar / Online services

www.registreentreprises.gouv.qc.ca/en/default.aspx

Corporations Canada / Online services

www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/home

Municipal assessments and taxes, municipal zoning by-laws...

Directory of Québec municipalities /
municipality websites /
municipality online services and contact information

www.mamrot.gouv.qc.ca

School taxes...

Québec Federation of School Boards /
school board directory /
contact information

www.fcsq.qc.ca

Agricultural Land Protection Commission

Online services

www.cptaq.gouv.qc.ca

Map of flood zones

www.cehq.gouv.qc.ca/zones-inond/cartographie/index.htm

Cultural Heritage Directory of Québec

www.patrimoine-culturel.gouv.qc.ca

With the new tools available to today's brokers, there is no longer any reason not to have a file properly documented. The Inspection Department will continue to emphasize the need for licence holders to demonstrate that they have verified the information they provide to the public and to other licence holders. Record documentation remains one of the main tools used to establish a broker's competency. On this subject, we encourage you to read the article no. 17683 on the OACIQ website (oaciq.com): *Competency verification : a new tool to improve our profession's image.* ●

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Reminder regarding the three-month period in which to take the old chartered real estate broker's examination after obtaining their AEC

We remind you that to be allowed to take the old examination (902.57 program) in order to obtain a chartered real estate broker's licence, certain conditions will apply.

We remind you that to be allowed to take the old examination (902.57 program) in order to obtain a chartered real estate broker's licence, a candidate must:

- have begun the 902.57 course (the old chartered real estate broker's course) before May 1, 2010;
- obtain their Attestation of Collegial Studies (AEC) before October 31st, 2011;
- apply for the chartered real estate broker's examination within three months after obtaining their AEC.

For example

- AEC obtained on September 15, 2011: The candidate must submit his application for an examination by December 15, 2011 at the latest.
- AEC obtained on October 31st, 2011: The candidate must submit his application for an examination by January 31st, 2012 at the latest.

Remember!

You have three months to apply for an examination after obtaining your Attestation of Collegial Studies (AEC).

Candidates who do not fulfill these requirements will have to take the examinations in accordance with the new regulations. ●



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Informez-vous!

- ✕ Nos services vous sont offerts du lundi au samedi inclusivement.

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OACIQ
ORGANISME D'AUTORÉGLEMENTATION
DU COURTAGE IMMOBILIER DU QUÉBEC

* À noter que le mot de passe pour tous les titulaires de permis de l'OACIQ est le suivant : 4726.

New Synbad: Things to do when you log in for the first time

When you access Synbad for the first time from the new OACIQ website, which is now online, you will be required to accept the Terms and Conditions of Use and change your password.

The purpose of this procedure is to maximize the security of the information contained in your record.

Instructions for your first connection to the new Synbad

First, click on *Open a Synbad session*, then enter your Licence number and your current Password and click on *Log in*.

If your email address does not exist in our records, you should provide one by following the indications on the screen.

After reviewing the General Conditions of Use, check the box *I have read and accept the Terms & Conditions of Use*.

Once you have accepted the conditions, you will be taken to a page where you will be required to choose a new password by filling out the two boxes marked *Password* and *Confirm password*. Please note that your password may contain a maximum of 8 alphanumeric characters.

Click on *Save* to complete the procedure.

Updating your personal information

We also encourage you to update your personal information by going to *My record* on Synbad and clicking on the *Edit* tab. While there, make sure you check your email address: if it is not the one you currently use, please enter your new address. ●



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Electronic Document Management (EDM) Systems Certification

When the new Real Estate Brokerage Act came into force, the OACIQ issued technical specifications for electronic document management systems, including the preservation, archiving and maintenance of records and registers, in accordance with its mission.

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The OACIQ also offered the possibility of analyzing systems in order to establish compliance with the normative framework issued on May 9, 2010 and available on the OACIQ website (oaciq.com) in the article no. 16081, entitled *Electronic Document Management (EDM): Maintenance, Preservation and Archiving of Records and Registers*.

At the beginning of February, the OACIQ certified two EDM systems: e-Z-max™ and Faltour™. Other systems are currently being analyzed.

WHAT IS THE PURPOSE OF THE CERTIFICATION?

When a company tells you that its EDM system is OACIQ-certified, it means that the version of the system analyzed is in accordance with the normative framework and the technical specifications developed by the OACIQ. Certification has a defined scope and includes certain limitations that you need to know about.

Following are the scope and limitations of an EDM system certification granted by the OACIQ:

EDM SYSTEM CERTIFICATION SCOPE AND LIMITATIONS

Certification is based on compliance with the technical specifications developed by the OACIQ. It is understood that any modification made to a previously certified EDM that has not been analyzed by the OACIQ and that could have an impact on compliance with the OACIQ's technical specifications shall result in voiding the certification.

The OACIQ believes that an EDM system, when properly used, promotes compliance with the regulatory standards governing the preservation of records, books and registers set out in the Real Estate Brokerage Act (R.S. Q., c. C-73.2). However, the use of an EDM system does not necessarily guarantee compliance with the ethical and professional requirements set out in the Real Estate Brokerage Act (R.S. Q., c. C-73.2) and the regulations

thereunder, and no representation shall be made to this effect. If such representations are made, the OACIQ shall have the right to revoke the certification.

Certification does not constitute confirmation that the use of a certified EDM system will guarantee the user's compliance with his obligations under the various laws and regulations that govern his activities. For example, to the extent where information technology and privacy protection are areas that involve the jurisdiction of other organizations, it is understood that certification does not constitute confirmation that a certified EDM system meets the requirements of these organizations or of any legislation governing these areas.

Certification is not time-limited. However:

- The OACIQ reserves the right to revoke certification at any time if it feels that protection of the public or compliance with the legal obligations of brokers and agencies is compromised. The same applies where a certified system becomes non-compliant with current standards, or with any new standard rendered necessary, including due to technological advances or the evolution of professional practices.
- The OACIQ reserves the right from time to time to require from anyone, including users of certified systems, such infor-

mation or documents as may be necessary to maintain certification.

- Certification only applies to the EDM system and not to the company applying for certification nor to any of its other services, products or activities. Any false, misleading or incomplete representations in this regard shall result in voiding the certification.
- The OACIQ also reserves the right to terminate its certification program at any time by simple notice, and to notify any person of such termination.

The OACIQ reserves the right to publish the scope and limitations of the certification, which form an integral part thereof. It may also publish a list of certified systems and inform anyone, by any means, including via its website, of any certification granted or revoked.

The OACIQ grants the holder of a certification the right to use the following complete expression: "OACIQ-certified EDM system", with or without the OACIQ logo. Any use of the logo is subject to applicable criteria.

For questions on EDM system certification, contact the OACIQ Inspection Department at 450 676-4800 or 1 800 440-7170. ●

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AmeriSpec of Canada is the only home inspection company in an exclusive partnership with The Brick.

Water Supply, Wells and Septic Tanks: duties and obligations of the broker

When a transaction concerns a property that is not serviced by a municipal water system or equipped with a wastewater treatment system, financial institutions usually want assurances that the water is drinkable or the system is up to code before authorizing a loan. The *Chambre des notaires du Québec* informs us that several files forwarded to notaries by real estate brokers do not contain any documentation or any verifications made to this effect.

Since requests are often made at the last minute, this frequently results in delays in the signing of transactions, causing harm and inconvenience for all parties involved.

These crucial verifications are an integral part of a broker's duty to verify and advise, because they are factors that are relevant to the transaction. Therefore, it is the responsibility of the real estate broker to verify compliance and obtain the documents that financial institutions require before authorizing a loan. The requirements are as follows:

Regarding water drinkability

When taking up a brokerage contract, the broker must:

1. Verify whether or not the water source is considered drinkable and state this on the detailed description sheet.
2. Verify the type of source, whether a public or private system, a well or spring, and obtain the following documents:
 - a. For a public system (municipality)
 - i. Tax bill.
 - b. For a private system
 - i. Copy of the contract or agreement with the system owner;
 - ii. System number;
 - iii. Customer invoice;
 - iv. Any document evidencing problems declared or remedied.
 - c. For a well or spring servicing a single property
 - i. Installed before 2004
 1. Copy of the installation invoice;
 2. Any document evidencing problems declared or remedied.
 - ii. Installed after 2004
 1. Copy of drilling report;
 2. Results of water testing at time of installation;
 3. Any document evidencing problems declared or remedied.
 - d. For a well or spring servicing more than one property, in addition to the above documents, you must provide a copy of the water easement.

If the seller has no document concerning his water supply and diligent verifications by the listing broker do not allow him to demonstrate the nature thereof, a note to this effect must be made to the detailed description sheet. This can be as simple as indicating "system unknown".

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In this case, the collaborating broker must warn the buyer about the risks inherent to this situation and recommend that he consult with a qualified person, such as a well digger.

- e. In all cases the listing broker must complete and have the clients sign the form "Declarations by the seller of the immovable".

When taking up a promise to purchase, the collaborating broker must advise his client to have a microbiological water test done, and allow enough time for the testing to take place and results to be received. In some cases, a physicochemical test could also be necessary.

Regarding sewage disposal systems

When taking up a brokerage contract, the broker must:

1. For systems installed before June 15, 1981
 - a. Obtain a copy of the installation invoice;
 - b. Obtain a copy of the construction or renovation permit.
2. For systems installed since June 15, 1981
 - a. Obtain a copy of the municipal permit and the professional's drawing;
 - b. Obtain a copy of the maintenance contract for certain systems.
3. In all cases
 - a. Obtain a letter from the city confirming whether or not any violation notices have ever been issued;
 - b. Advise the seller to remove the warranty regarding the septic system;
 - c. Obtain any document evidencing problems declared or remedied;
 - d. Advise the seller to have his septic tank emptied or obtain the bill for the last emptying.
4. If the seller does not have any documentation on his septic system, the broker must state this on the detailed description sheet.
5. Complete and have his clients sign the form "Declarations by the seller of the immovable".

If the seller has no document concerning his sewage disposal systems and diligent verifications by the listing broker do not allow him to demonstrate the nature thereof, a note to this effect must be made to the detailed description sheet. This can be as simple as indicating "system unknown".

In this case, the collaborating broker must warn the buyer about the risks inherent to this situation and recommend that he consult with a qualified person, such as a specialty contractor.

Regarding the sewage disposal system, in all cases the broker should recommend that the seller state on the brokerage contract and on the detailed description sheet that he cannot guarantee the conformity of his septic system.

When taking up the promise to purchase

The collaborating broker must copy onto the promise to purchase the information contained on the detailed description sheet regarding the sewage disposal system, including the fact that the seller cannot guarantee the conformity of his septic system and recommend the addition of an inspection clause regarding this system.

We remind licence holders that for many years now the OACIQ has been offering a continuing education activity entitled "Wells, septic tanks and soil absorption fields: duties and obligations of the broker". This activity will help you familiarize yourself with the different types of systems and better fulfill your duty to advise and inform. ●

Clarification relating to the notice of suspension of the real estate broker's licence of Mr Vincenzo Chiara (licence no. B8848) following the decision of the discipline committee concerning the case 33-06-0979

The Organisme d'autoréglementation du courtage immobilier du Québec would like to clarify that the notice of suspension concerning Mr Vincenzo Chiara, real estate broker (licence no. B8848), does not concern his namesake Mr Vincenzo Chiara, lawyer and president of Groupe Mach inc, who is not a holder of a licence issued by the Organization. ●



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Election 2011

Candidates for two director positions in the Montréal region and candidates for one director position in the Western region

In the Montréal region, four candidates are vying for two Director positions. They are Réal Bédard, Pierre Martel, Johanne Roy and Bernard Savard. Also, four candidates are in the running for the position of Director in the Western region, i.e. Darlene Albert, Mario Lepage, Louis Sabourin et Carole Strasbourg.

Elections will therefore be held in the Montréal and Western regions. The closing of the polls is Friday, May 27, 2011 at 4:00 p.m., which is the deadline to exercise the right to vote. Licence holders will receive the voting policy shortly in the form of an explanatory sheet with instructions on how to vote electronically. ●

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- Digital signage of your listings on a TVHD
- Management of presence by the way of a touch screen
- Management of contacts (CRM)
- Generates broker duty list

Agenda Notes

May

June

July

THE OFFICES OF THE OACIQ WILL BE CLOSED

May 23, 2011

Statutory holiday for National Patriots' Day

June 24, 2011

Statutory holiday for Québec's National Holiday

July 1, 2011

Statutory holiday for Canada Day

The
OACIQ
was
there!

The Soirée des attestations de Royal LePage at Château Royal de Laval, February 4, 2011.

The
OACIQ
will be
there!

The Gala Performance du Réseau La Capitale Centre Sheraton of Montreal, February 5, 2011.

The Symposium et salon du Québec - ACCHA

Sheraton Laval, Laval 2440, Autoroute des Laurentides, Laval, May 26, 2011.

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The OACIQ and you

Info OACIQ Centre

The Info OACIQ Centre: at your service

In 2010, the Info OACIQ Centre largely exceeded the number of calls received in 2009. In 2011, things are looking pretty good! We could even say that we have started the year at full speed with already, at the end of March, 19,000 information requests that we have processed i.e. 43% increase compared to the same period last year.

The centre's information agents are ready to answer your questions on real estate brokerage practice, and to provide you with all information concerning the different services of the Organization. Do not hesitate to contact them for any information you may require.

Education

Make your voice heard

The Education department has planned for you 32 consultation sessions on the new forms across Quebec between April 12th and May 5th in order to enable you to comment on the proposed amendments as well as the trends that were not unanimously agreed upon during the online consultation on the blog.

The form review process is conducted in an atmosphere that favors the exchange and discussion of ideas. It will enable us to come out with forms that will best suit your needs and your professional reality.

Certification

Information on examination dates

Do you want to register for an exam? Consult the examination schedule available on the OACIQ website at www.oaciq.com. Under *Resources* in the top menu bar, click on *Certification*. In the menu on the left hand side of the screen, click on *Examination Schedule*. The examination dates are displayed in orange.

We would like to remind you that you should submit your examination application at least 21 days before the date you intend to take the exam.

In addition, to learn how to register for a new examination, consult the *Procedures and conditions for taking the new OACIQ examinations* article on our website (article no.17722).

OACIQ Assistance

Upcoming information Tour

The OACIQ assistance service, whose primary mission is to respond to the assistance requests addressed to it by both the public and real estate brokers, is currently working in developing a program to make its service known among real estate brokers.

Next fall, the team of analysts of the assistance service will be conducting an information tour of many agencies and brokers in order to present the different interventions applied by analysts to resolve certain conflicts or problems, and discuss the concerns inherent in particular situations of the real estate brokerage. The purpose is to create a solid bridge and a sound collaboration between the real estate brokers and the assistance service.

Read our *pro@active* weekly newsletter regularly, additional information about this fall tour will be provided to you.

Do you prefer to view **Profession Broker** online on the OACIQ website or to receive it by mail?

Although there are advantages to maintaining your subscription to *Profession Broker*, you should know that you now have the option to discontinue your subscription and view the publication online on the OACIQ website.

A link to unsubscribe has been created to make this service flexible and easy to use.

Simply go to **My record** on *Synbad*, the OACIQ extranet, and indicate your preference by clicking on the link to deactivate it:

I wish to subscribe to **Profession Broker**

Please note that you can resume your subscription at any time by reactivating this link.

New policy on advertising in

profession  **Newsletter and**  **Synbad extranet**

As announced in the January edition of *Profession Broker Newsletter*, the OACIQ board of directors has decided on the policy to adopt concerning advertisement in the newsletter following the survey conducted last November on your preferences as to advertisers who diffuse their advertising in it.

Therefore, the members of the board of directors have taken the decision to change the categories of advertisers in the light of the comments received. These comments show that many of you are in favor of the advertisement of advertisers of the partners program and real estate brokerage stakeholders, but do not see that the advertisement of the services of brokers, agencies and franchisors in the OACIQ newsletter is relevant.

Therefore, here is the new **Policy on advertising in the Profession Broker Newsletter and Synbad extranet**.

Advertising published in the OACIQ periodical (*Profession Broker Newsletter*) and on *Synbad* extranet by Partner Program advertisers and members of the real estate industry must conform to the provisions of the Real Estate Brokerage Act (R.S.Q. c. C-73.2) and the Regulation respecting brokerage requirements, professional conduct of brokers and advertising regarding the rules of advertising and representation..

The OACIQ does not allow any advertising on its oaciq.com website.

Advertising by Partner Program advertisers or members of the real estate industry

Advertising by Partner Program advertisers or members of the real estate industry must contain:

- the complete name of the advertiser.

If the advertising is for a service delivered by a natural person who is the holder of an OACIQ licence, it must contain:

- the last name and first name of the person as it appears on the licence;
- one or more of the following designations, identifying the fields in which the person is authorized to practice as per the licence (real estate broker, residential real estate broker, commercial real estate broker, real estate mortgage broker);
- the "Chartered" designation if the person is qualified to act as executive officer of an agency (optional).

Advertising by Partner Program advertisers or members of the real estate industry may also contain:

- any logo or other visual element which the advertiser is authorized to use;
- the telephone number of the principal establishment in Québec;
- the address of the principal establishment in Québec;
- other business information (fax number, website address, email, etc.);
- a description of the product, service or event advertised;
- any other information to ensure clear understanding and required by the type of ad.

General

Advertising must provide sufficient information so as not to deceive or mislead the public. All advertising content must be verifiable, quantifiable and supported by solid and rigorous proof.

Comparative advertising is not permitted, i.e. comparison to a competitor, reference to market share, sales statistics, sales figures, etc.

Authorized advertising

- **Institutional advertising**
Advertising by which the advertiser makes its name known (brand name) and presents any features that distinguish him/her in terms of products or services.
- **Business card**
Reduced size ad containing only the advertiser's name, logo and business information.
- **Notice of appointment**
Ad announcing someone's appointment to a position.
- **Business opportunity**
Ad announcing business opportunities, i.e. sales or mergers or the sale and rental of equipment, office equipment, etc.

Ad validation process

- Ad projects are received by the Communications Department and go through a validation process by various authorities within the OACIQ.
- Approval is given by the Communications Department.

The confirmation to the announcer or any request to modify the ad is sent to the person in charge of advertising sales.

The OACIQ reserves the right to refuse any ad deemed inadequate.

Rate cards

Please see the "Advertising rates card - *Profession Broker*" for the conditions and rates to advertise in the *Profession Broker Newsletter*.

Please see "*Synbad Extranet Advertising Rates Card*" for the conditions and rates to advertise on the OACIQ's extranet site. ●