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MBABC RECOMMENDS SOLUTIONS FOR UNREGISTERED BC MORTGAGE BROKERS WHO COLLECT FEES –MORTGAGE BROKERS ACT (MBA)

The MBA requires persons who in any one year, earn a \$1,000 or more for arranging mortgages for others to obtain mortgage broker registration. However, a BC court (*AZTA Management Corporation v. Croft Agencies Ltd.* 2014 BCSC 1462) recently determined that an unregistered mortgage broker claiming a \$630,000 broker fee did not require registration. This is because he was not considered to be in the business of brokering, which is a requirement for enforcement under the MBA.

Mortgage broker registration helps to protect the public by regulating the integrity of the individuals who broker mortgages, and ensuring that certain standards and required practices are adhered to, including providing appropriate disclosure and obtaining client agreement to fee charges. Protecting the public interest demands change. Accordingly the MBABC has made recommendations to the BC government to address this issue, which include amending the MBA:

1. So that mortgage brokers who arrange mortgages and earn \$1,000 or more in a year require registration, regardless of whether they are considered to be “carrying on business”; and
2. Making it a requirement for mortgage brokers, who wish to collect broker fees from clients, to be registered and enter into a written client agreement which sets out the fee arrangement.

These proposed changes would help to eradicate the problem of unregistered mortgage broker activity without placing an enforcement burden on the regulator. This is a particularly noteworthy issue at a time when the MBA is being looked at by the government for amendment or replacement.

If you would like more information about this topic, please contact Samantha Gale at 604-408-9989 or email at samanthagale@mbabc.ca.