

New EO/AE Session



Presenters

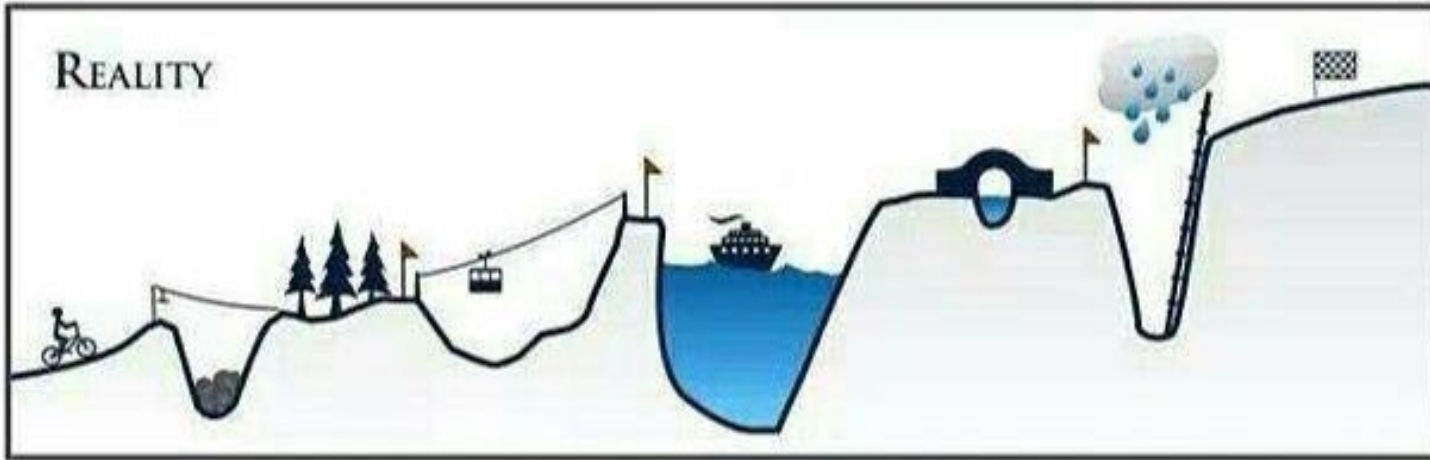
Bill Madder, CRAE, CEO, LSTAR

Paul Feuer, Senior Competition
Counsel, CREA

YOUR PLAN



REALITY






New Member Information

Welcome to the AEN! We are here to support you as a new association executive in organized real estate. The AEN offers you access to a network of colleagues, resources and professional development that will assist in your daily operations.





Checklist of Functions for Executive Officers

DOWNLOAD 



AE Peer Support Network – Position Description

DOWNLOAD 



Key Documents to Check Immediately

- Last audit (if available)
- Last annual report
- Bylaws/articles
- MLS® rules and regulations
- Strategic plan (if available)
- Organizational charts
- Director bios
- Insurance policies
- Your job description







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Professional Development



Legal & Compliance

ENTER



Products & Technology

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Designations



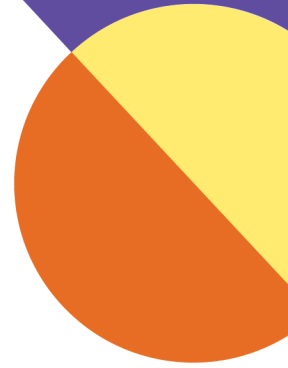
Canadian REALTOR®
Association Executive (CRAE)



Certified Real Estate
Brokerage Manager (CRB)



Certified Real Estate
Team Specialist (C-RETS)



Canadian REALTOR® Association Executive (CRAE) Designation Program

Advancing industry-specific knowledge, competency and professionalism of AEs

Canadian REALTOR® Association Executive

The Canadian REALTOR® Association Executive (CRAE) Designation is the only industry specific designation for association staff and is comprised of a series of comprehensive and practical courses. The CRAE Designation supports Association Executive Officers (EOs), senior staff of real estate boards, and associations who are new to the industry or new to senior positions. As part of CREA Core Board Standards, new EOs are required to complete the CRAE designation program within three years of being hired. Within the program, they must complete Leadership 100 and CRAE module 1 prior to the first AE Seminar (both are offered online). To earn the CRAE Designation, you must complete the National Leadership Program (Leadership 100, 200 & 300), and all CRAE modules 1-5 (eLearning component & Virtual/In Person component).

Earn Your CRAE
Designation

Frequently Asked
Questions (FAQs)

CRAE Designation
Graduates


Ongoing Professional Development for Yourself

- Canadian REALTOR® Association Executive (CRAE)
- REALTOR® Quest
- Canadian Society of Association Executives (CSAE)
- Western Connection Conference
 - CAE designation
- AE Seminar
- CREA AGM/Leadership Summit/PAC Days
- NAR Institute
- Networking at any opportunity!
- Provincial conferences


Directors' Education/Professional Development

- National Leadership Program (NLP) courses
- Provincial and CREA Conferences
- CREA PAC Days
- National Association of REALTORS® (NAR) for governance
- Governance training (Watson, ICD, etc.)






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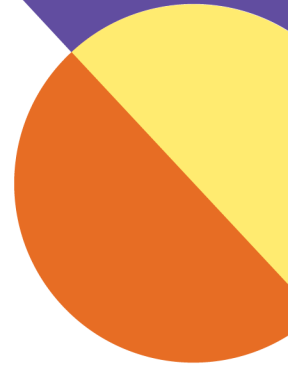
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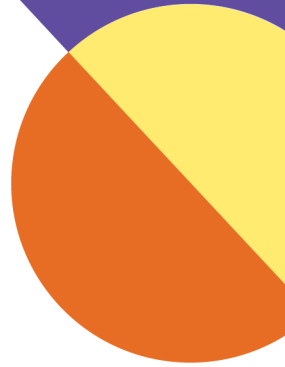


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Team Specialist (C-RETS)



Example – BOD vs. Committees, Task Forces, Advisory Groups

Item	BOD	Committees, TF's & AG's
Members are	Elected	Appointed
Reports to	Membership	Board of Directors
Duties defines by	Bylaw/Policy	Board of Directors
Basic role	Makes decisions	Recommends
Meeting style	Formal	Informal
Chair's style	Neutral	Involved
Decisions by	Vote	Consensus/Motion



Example – Who Does What? How?

Action	Board of Directors	Staff
Develop options	No	Yes
Consider options	Yes	Yes
Decide <i>re</i> options	Yes	No
Implement	No	Yes
Monitor	Yes	Yes

Example – Staff vs. Volunteer Roles

Staff	Volunteers
Inform and advice leaders	Represent all members
Carry out decisions	Serve all constituencies
Understand/accept volunteer role	Assume responsibilities/obligations
Monitor change/remain flexible	Try to work cohesively with staff

Example – Policy Process

- The members decide **WHO** will be on the Board of Directors
- Board of Directors decides **WHAT** to do
- Staff decides **HOW** to go about it (and does it)



Governance Templates and Sample Documents



Let's Talk Competition

Agenda



- Competition law: What's the risk?
- Specific areas of bureau concern
- Competition law 101 – boot camp
- Competition risk management

The Secret to a Happy Life: Develop Competition Radar

- EOs are the point person for competition issues in any board/association.
 - Internal: directors, members
 - External: media, others
 - Compliance officer under Bureau bulletin
- Know the basics of Competition law.
 - Be able to spot basic issues
 - Know when to call CREA competition counsel

Competition Act

- Federal legislation
- Specific types of prohibited or reviewable activity – civil and criminal provisions
- Protects competition, not competitors
- Enforced by Commissioner of Competition and Competition Bureau

Main Concerns for Trade Associations

- Restricting goods or services members may offer
(for example: rules limiting office location, size).
- Limiting members' ability to compete or increasing barriers to entry
(for example: imposing fee schedules, limits on advertising or part time participants, types of business models).
- Conduct that reduces incentives to compete
(for example: agreements to share sensitive information creating transparency in the industry).

Danger Areas: Interfering with Competition

Key aspects:

- Pricing (commissions, fees)
- Advertising
- Business models (goods and services offered)

Where Do Competition Issues Come From?

- Bylaws, rules, policies and board positions
- What you say and do (conduct) matters:
 - Directors, EO, staff
 - REALTOR® members

Risk Management



- Risk to organizations:
 - Bureau enforcement action (fines, prohibition orders)
 - Private actions (individual and class actions)
 - Costs and disruption
 - Reputational damage

Responsibilities

- Directors and board leadership – education and compliance
- Boards and associations – education and compliance program
- REALTOR® members – primarily education

Abuse of Dominance

- Bureau's view that rule making and enforcement powers provide market power to associations
- 2010 Consent Agreement – allegations CREA was limiting innovative service models and pricing
- TRREB litigation (2011-2018) – importance of minutes
- Significant new penalties – administrative monetary penalties (AMPs) of \$10 million (\$15 million for repeat offenders)

Bureau Investigations

- On Bureau's own initiative of following a complaint
- Supposed to be conducted "in private"
- Can get information through:
 - Voluntary requests for information
 - Subpoena (section 11) for documents, written responses to questions, oral testimony under oath
 - Search and seizure (section 15) including electronic search and seizure (section 16) – usually criminal
 - Wire tap – criminal
- Leniency and immunity programs

General Considerations

- Competition risk is generally minimized when rules, policy decisions or positions:
 - Benefit REALTORS® and have neutral or positive impact of consumers.
 - Are justifiable as reasonably necessary for the efficient operation of the board/associations MLS® System and its members' interests (TRREB decisions).
 - Do not have a discriminatory or anti-competitive effect (or intent)
 - On a particular business model, e.g. mere posters
 - On another aspect of competition, e.g. pricing, increasing barriers to entry.

Purpose of Compliance

- ✓ Protect the organizations/Board of Directors
- ✓ Educate members to protect themselves
- ✓ CREA resources – just for you!
 - Written materials
 - Videos
 - Presentations/webinars
 - Board of Directors and staff
 - Members

You Need a Compliance Program

- Senior management's involvement and support—create a competition culture;
- Legally and commercially up-to-date compliance policies and procedures;
- Ongoing and meaningful education and training of directors, staff committee members and employees;
- Monitoring, auditing, and reporting mechanisms that maintain program integrity;
- Consistent disciplinary procedures and incentives; and
- Competition compliance officer.

You are Not Alone!

CREA has full-time competition legal counsel

- Questions from directors and members
- Reviewing proposed rules and bylaws
- Committee issues
- Presentation to general membership (two to three hours)
- Presentations to Board of Directors and senior staff (30 minutes)

CREA's member portal – compliance at your fingertips!

- Compliance Centre
- Board Leaders Competition Guide
- Real Estate Competition Guide
- New Competition Law Course: learning.crea.ca

Your own board/associations counsel

Scenario #1



A director has gotten an email from a member demanding that your board/association take action to deal with low-priced business models.

How do you protect your Board of Directors, your board/association and yourself?

Scenario #2



Your board/association runs a blog. A particular thread starts out innocently enough with a question about how different business models work. However, soon the conversation leads to barbs being thrown about low-priced competitors and FSBO companies. As of yet, no one has talked about refusing to deal with discounters.

What should you do?

Meetings

- Have an agenda, follow it, keep minutes.
- Prevent or shut down inappropriate discussions.
- If you attend someone else's meeting object and if does not stop then leave (noisy withdrawal) – create a written record!
 - The authority of your organization may be implied by your presence.

Social Media

- You always represent your organization when responding on social media, e.g., Facebook, X (Twitter), LinkedIn.
- Monitor content posted under your own groups/threads (e.g., closed groups):
 - Remove objectionable content.
 - Warn writer of potential concerns.

Scenario #3



At the Christmas luncheon and election, candidates are making speeches. Halfway through his speech, one candidate says, “we have to do something about the commission structures out there.”

What should you do?

Emails and Written Correspondence

- Don't treat emails as informal.
- Don't make language mistakes.
 - Avoid flippant language that could be misinterpreted:
 - *"We'll show X how to do business the right way."*
 - Avoid unnecessarily aggressive language:
 - *"By doing this we will crush them/render them market ineffective."*
 - *"I told them that we would do something about it if they didn't stop their behaviour."*

Document Creation and Retention

- Avoid aggressive language or loose commentary.
- Have and follow a document retention policy:
 - No longer than reasonably necessary;
 - No private or “secret” files; and
 - Correspondence with legal counsel in separate file.

Dealing with Other Boards/Associations

- Don't exchange sensitive business information, e.g., pricing, business plans.
- Use of surveys – Bureau considers different board/associations as potential competitors for members.
- Don't disclose business confidential information, e.g., non-disclosure clause in contracts.

Scenario #4



A notice goes out to brokers to send in agenda items for an upcoming broker council meeting. The next day, a broker sends in a message indicating that he wants to add an agenda item to talk about low commission structures in the marketplace.

What should you do?

Scenario #5



One member stands up at a meeting and demands to know why the board allows members from an adjacent board to sell properties in their area?

What should you do?

Bureau Searches

- Contact legal counsel and CREA.
- Ask officers conducting the search to wait until counsel has arrived before starting.
- No documents should be destroyed, concealed or removed during a search (obstruction).
- Documents to/from lawyers should not be provided to investigators.
- All communication with investigators should be conducted through counsel.

In Conclusion...

- There are no stupid questions—just danger if you don't ask! Be risk averse!
- Paul Feuer doesn't charge on a per call basis! Call often!
- Daily game of “spot the issue”.
- Always ask whether there might be a competition issues in:
 - Any policy/business decisions involving a change in rules, bylaws, policy or practice; or
 - That **might** affect data access, business models, costs of doing business for members.

THANK YOU.



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