

MORTGAGE
PROFESSIONALS
CANADA



PROFESSIONNELS
HYPOTHÉCAIRES
DU CANADA

Advice to the
British Columbia Ministry of Finance
on its Public Beneficial Ownership
Registry Consultation

Mortgage Professionals Canada
April, 2020



Introduction

Mortgage Professionals Canada (MPC) is the national mortgage industry association representing 11,500 individuals and 1,000 companies, including mortgage brokerages, lenders, insurers and industry service providers. Our members make up the largest and most respected network of mortgage professionals in Canada. MPC represents members' interests to government, regulators, media and consumers. Together, the association is dedicated to maintaining a high standard of industry ethics, consumer protection and best practices.

Page | 2

The mortgage broker channel originates over 35% of all mortgages in Canada and 55% of mortgages for first-time homebuyers, representing approximately \$80 billion dollars in annual economic activity. With our diverse and strong national membership, Mortgage Professionals Canada is uniquely positioned to speak to issues affecting all aspects of the mortgage origination process, with all levels of government in Canada.

Mortgage Professionals Canada is primarily focused on your ministry's concurrent consultation on the *Mortgage Brokers Act* (the Act), but felt it important to add our comments regarding this proposed registry.

MPC supports the Government of British Columbia as it seeks to minimize money laundering, modernize regulation to optimize consumer protection, and maximize consumer confidence. In this submission, MPC will address certain questions posed in the Public Beneficial Ownership Registry Consultation Paper which are currently relevant to the mortgage brokering community.



Minimizing Money Laundering While Protecting Legitimate Privacy Interests

MPC shares and supports the B.C. Government's desire to eliminate money laundering. The Minister of Finance's stated goal of a registry of company beneficial ownership, to "end tax evasion and hidden ownership in British Columbia", is laudable.

The government has also created the Land Owner Transparency Act (LOTA), which, as of this submission, was not yet in effect. As LOTA shares many of the characteristics proposed by the government in this consultation, it would have been helpful to use LOTA as a yardstick for discussion.

While we understand the rationale behind the LOTA, there should be a balance between fighting illegitimate activities while protecting legitimate privacy interests. We believe LOTA and the proposed Public Beneficial Ownership Registry for BC companies should reflect this; as written, LOTA does not seem to.

From LOTA, as assented to in May, 2019¹:

Administrator's duty to make information available

30 (2) Subject to and in accordance with this Act and the regulations, the administrator must make the following information contained in transparency records available for search **by any person** [emphasis added]:

(a) primary identification information in respect of reporting bodies that are, at the time of the search, registered as owners of interests in land;

(b) primary identification information in respect of

(i) individuals who are, at the time of the search, interest holders in relation to the reporting bodies or interests in land referred to in paragraph (a), or

(ii) in the case of reporting bodies that are trustees of relevant trusts, persons who are, at the time of the search, settlors of the relevant trusts;

(c) prescribed information, if any.

(3) Primary identification information contained in a transparency report in respect of an individual who is an interest holder or settlor must not be made publicly accessible under subsection (2) until at least 90 days after the transparency report has been accepted by the registrar for filing with the administrator.

¹ <https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/4th-session/bills/third-reading>



An important potential issue with LOTA is the ability for people other than lawful authorities to communicate and publicize information found on such registries. It is wrong and unfair, for instance, for people who may have unfounded grievances to have the power of search then weaponizing searches against individuals and/or businesses with only legitimate privacy interests, whose reputations would be irreversibly tarnished before or absent due process. We suggest that only inspections and searches for law and regulatory enforcement or tax and related purposes conducted by enforcement officers, ministry officials or regulators be permitted to be made public, and that all searches made by those who are not enforcement officers, ministry officials or regulators be very limited in scope and kept confidential, with communication of contents forbidden. The current mechanism to prevent a “misuse of information” is a maximum penalty under LOTA of \$50,000, and a maximum of \$25,000 for individuals. We believe this maximum penalty to be too low, and ask that the maximum penalties should be doubled.

“What degree of searching should the public have?” Disclosure is, as is stated in the Consultation Paper, an “answer to anonymity”; however, we feel that anonymity for legitimate privacy reasons should not be stigmatized. For clarity, we are supportive of the creation of the registry, and believe it to be a sound tool for prevention, and for authorities to use in their investigations. Allowing full public searchability of the registry is, we believe, poor public policy. The general public should not be granted the authority to police transactions, nor access information related to individuals’ net worth or financial position. Full access to the registry should be restricted to appropriate authorities.

Potential Costs to MPC Members Due to Proposed Registry

The concerns voiced by members focus on the potential additional real estate transaction cost, and increased administrative requirements, neither of which is discussed within consultation paper. Without any details regarding government’s current expectations here, we acknowledge it is difficult to appropriately comment, offer constructive feedback, or critique. We recommend the Ministry of Finance creates a consultative panel to discuss topics related to the costs the proposed registry may impose on businesses, and ask that MPC be a stakeholder participant in such efforts.

As for the cost to access the proposed registry, the cost for an Access to Information and Privacy (ATIP) request is \$5.00 (five dollars). This is a reasonable cost to access a public database. We ask that the revenues collected from costs to search be exclusively used to maintain the database, and that regular auditing of the costs to maintain the database be conducted.

Linking of B.C. Registry with Those in Other Canadian Jurisdictions

MPC supports a national registry and harmonization with other provinces.



Conclusion

On behalf of our approximately 1,300 members in British Columbia, thank you for considering MPC's recommendations and for your efforts to improve the *Mortgage Brokers Act*. We always welcome the opportunity to assist governments as they seek to streamline the administration and regulation of mortgage brokering. We look forward to discussing the aforementioned topics with your team at your convenience.

Page | 5

We always appreciate your thoughts, insight, and perspective. If you require any additional data, testimonials from our members and/or their clients, or any other specific information, we would be more than happy to provide it to you. Our Director of Government Relations and Regulatory Affairs is J.P. Boutros. He can be reached at jpboutros@mortgageproscan.ca, 416-644-5466, or at our office address below.

Sincerely,

Paul Taylor
President and CEO
Mortgage Professionals Canada
ptaylor@mortgageproscan.ca