

## Real Estate Business: Industry or Profession?



**By Brian Madigan LL.B.**

Is the real estate business an industry or a profession?

Now, most real estate agents would say that it is a profession. After all, they have been in the business for years, have certain ethical standards and continuing educational requirements.

But, really how do they compare to other professions, including accountants, engineers, lawyers and doctors?

The basic ingredients for a profession are:

- 1) **education and training,**
- 2) a **code of ethics** or conduct,
- 3) **continuing education.**

On these basic tests, does real estate make the grade?

### **1) Education and Training**

A lawyer spends at least five years learning the law before practising. A real estate agent can be in business after just 5 days in a classroom.

There are three phases that are taken in sequence to get into the business and start selling. Phase 1 takes about 30 hours. It's a self study program. Phase 2, you can take in class. It is a 60 hour course. If you wish you can stay home and read the material yourself. Phase 3 is 80 hours in class, but you can elect to take the half program which is 40 hours and study the rest on your own. So, the only "mandatory" in class attendance is the 6 day 40 hour Phase 3 program. However, day 6 is just a 3 hour exam. That leaves us with 5 days of actual "in-class" teaching. That's a little shy of the mark.

Doctors are much longer. Accounting and engineering are shorter, but still requires year's of study.

With real estate, the time period can be as short as about 4 months. At that point, there are no restrictions whatsoever. There are three more courses to take over a 2 year period, but there is no restriction on the nature or type of service that an agent would be authorized legally to provide. And, that is without any degree of mandatory supervision. If a new agent is supervised, it is likely to arise only because they sought help. Newly trained lawyers are restricted in the matters that they make undertake as are doctors.

When it comes to engineers, they graduate after four years at university with an undergraduate degree. Doctors and lawyers are both participate in recognized post graduate programs.

There are no minimum educational prerequisites, although the math component is equivalent to grade 10 math as taught in the Ontario Secondary Program.

The educational requirements seem somewhat scanty. A couple of weeks after grade 10 does not really seem to be enough.

## **2) a Code of Ethic or Conduct**

There is an actual Code of Ethics that applies to those registered under the Real Estate and Business Brokers Act. However, it just came into force two years ago. Prior to that, it was voluntary. There were some ethical guidelines that applied to about 85% of the group, that would be realtors, or those who joined organized real estate. They would have been bound by ethical guidelines established under the Canadian Real Estate Association, the Ontario Real Estate Association and local boards.

Those guidelines were used to form the basis of the obligations under the new Code of Ethics.

But, there is one very BIG problem! They permit conflicts of interest. Real estate agents can act on both sides of a deal and get double commissions. This should not be allowed! However, it is. And, for that reason alone I would consider the real estate business as an industry and not a profession.

It's called multiple representation. It seems innocuous enough, but it's not. It's just crazy. Would you expect your lawyer to be acting for the person you were suing?

The industry wanted to continue to "double dip" and petitioned the government to pass legislation which continued to permit this practice. That doesn't change the fact that it's fundamentally wrong.

### **3) Continuing Education**

Actually, real estate fairs pretty well here. There is a legal requirement for 24 credits, representing 24 hours of attendance or participation every 2 years. For both doctors and lawyers, this is expected but not legislated. So, on this point, the real estate industry has the upper hand.

### **Conclusion**

It's not difficult to decide. Real Estate will never be a profession in my opinion, until conflicts of interest are eliminated and the educational entrance requirements are strengthened. Let's assume a **two year College program** following a basic university education, and a **strict Code of Ethics**. That would be a good starting point.

The sad fact is that many agents have those qualifications now.

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