

## AREA Purchase Contract Changes – July 18, 2017

### Form affected:

- Purchase Contract Dower Consent and Acknowledgment

### Please Note section:

#### Current clause:

- Officiating Officer is an authorized person such as a Commissioner for Oaths or a Notary Public (refer to your brokerage policy for direction on execution). The instrument is the Purchase Contract.

#### Change:

- **If this form is signed in Alberta**, an Officiating Officer is an authorized person such as a **lawyer**, Commissioner for Oaths or a Notary Public (refer to your brokerage policy for direction on execution). **When signed outside of Alberta, the Officiating Officer should confirm that they have the appropriate authority.** The instrument is the Purchase Contract.

#### Why?

- The Dower Consent and Acknowledgment (DCA) form is comprised of 2 parts – the top half of the form contains explanatory information to guide REALTORS® in the use of the form. The bottom half of the form contains required content based on the *Dower Act*.
- Included in the explanatory top part of the form are examples of Officiating Officers who can administer the DCA form. The form has always indicated “Commissioner for Oaths and Notary Public” and AREA has received member questions asking if a lawyer can sign the form. The answer is yes.
- To clarify, AREA initially planned a simple addition of “lawyer” to the list. However, in forms development it seems nothing is simple! A review of the *Dower Act* indicates the list of authorized persons depends on whether the document is signed within Alberta or outside Alberta, as follows:
  - **Within Alberta** - notary public for Alberta, a lawyer (a member of the Law Society of Alberta, other than an honorary member, who has not been suspended or disbarred) and commissioner for oaths in and for Alberta, among others.
  - **Outside Alberta** - various options dependent on the jurisdiction.

- Therefore, the revised clause is:
  - If this form is signed in Alberta, an Officiating Officer is an authorized person such as a lawyer, Commissioner for Oaths or a Notary Public (refer to your brokerage policy for direction on execution). When signed outside of Alberta, the Officiating Officer should confirm that they have the appropriate authority. The instrument is the Purchase Contract.
  
- What does this accomplish?
  - Adds lawyer to the list of Officiating Officers – a title REALTORS® and clients are familiar with;
  - Adds clarity around signing within province vs. outside; and
  - Puts the onus on those outside the province who are acting as an Officiating Officer to confirm they have the authority to do so.

How does this affect my practice?

- There is no change to your practice.