

**Winnipeg Real Estate Board Presentation to the Manitoba Government
Respecting the Protection of Personal Information in the Private Sector
– May 10, 1999**

As a representative of the Winnipeg Real Estate Board, I want to commend the Manitoba Government for taking the initiative to draft a discussion paper and hold public meetings on the protection of personal information in the private sector. Your anticipation of the federal government's Bill C-54 is timely and necessary. Our national association, the Canadian Real Estate Association, is already in discussion with Industry Canada and is preparing a draft code of privacy that, when approved, will apply to all of its members including our Board.

As well, you have recently heard from the Brandon Real Estate Board on this matter. We are very much in agreement with them on how government at all levels should be handling the protection of personal information. Through our major investment in new technology, the Board has become a provider of Multiple Listing Service® (MLS®) services to Brandon and enjoys a very good relationship with them in our effort to refine and upgrade the MLS® system. Finally, the Manitoba Real Estate Association, of which both Brandon and Winnipeg real estate boards are members, is supportive of our position with regard to privacy.

Established in 1903, the Winnipeg Real Estate Board is the longest running Board in the country. This not-for-profit organization is a professional and industry association representing close to 1,400 real estate brokers,

salespeople, appraisers and financial members active in the local real estate market. It exists to serve its members and to promote the benefits of organized real estate. This established organization has earned a well-respected reputation among its peers throughout the country. Ultimately, through the Board's continued and exemplary efforts to provide the best possible services to its members, the consumer is well served. Just last year alone, over 10,300 sales were transacted through our MLS® system and that number of sales approached nearly 900 million dollars worth of activity.

Consider the other multiplier effects resulting from related services and dollars spent directly as a result of real estate transactions and you begin to appreciate the economic importance of our industry. The Board would be remiss by not adding here that there are a considerable number of exclusive sales by REALTOR members, and Commercial Listing Service™ (CLS™) sales that are not included in our MLS® total.

Our MLS® system is a registered trademark under our national association, and it has been around nearly fifty years. It is without question the most successful marketing vehicle of real estate in the world. A more recent example of its value in the eyes of the consumer is mls.ca. This is our national Internet site and it features all current MLS® listings across the country. Click on any place in the country and it will direct you to the available listings in that region. If you are interested in a property, you can often e-mail the REALTOR who has the listing and get a response to your inquiry very quickly. This extremely popular site is ranked among the top

sites in the country when you tabulate the number of hits, page views and property data sheet requests received each day.

This MLS® database the Winnipeg Real Estate Board places so much importance on, and the development of a new Commercial Listing Service™ (CLS™) database with similar on-line attributes, is a major reason why we are presenting to you tonight. We do not want to see any legislation, regulations or government interpretation of personal information harm the effectiveness and performance of MLS® and CLS™. In the interest of time, it is the Board's understanding you were provided with a good description from the Brandon Real Estate Board on how our sophisticated computer database works and what information is necessary to sell or market a property. Suffice to say, the information provided on our database is required so the consumer gets the best possible data for them to make an informed decision on selling, buying or investing in real estate.

In speaking directly to the discussion paper, we concur with much of the sentiment and attention paid to the various aspects of personal information. Compliments go out to the authors of this discussion paper. The paper was well written and thought out. It was much clearer to us where your concerns lay in this discussion paper than in The Manitoba Freedom of Information and Protection of Privacy Act. The latter has what appears to us to be a number of conflicting, or at best, mixed messages that may well lead to a patch quilt of individual government department interpretations.

A key point made in your discussion paper that you attribute to the Manitoba Information Highway Advisory Council bears repeating. It states: "... there is a need to strike a balance between protecting the privacy of personal and confidential information and ensuring access to information for legitimate social and economic purposes." This statement gets to the crux of our concerns when it comes to how far do you go to protect privacy without jeopardizing legitimate business needs that benefit consumers.

Putting our own self-interest aside for the moment in addressing our database issue with respect to the protection of personal information, we want to speak to Manitoba's competitiveness in a present context where over 75% of its exports are shipped to the United States. As you correctly state in your discussion paper, the use of information is not just another factor in doing business, it is becoming a critical one that can make the difference between a company being competitive or not in a global economy. My question to you and through you, to the federal government, are we as Manitobans serving our best economic interest by following the European Union's lead instead of being sensitive to local realities with our dominant trading partner – the United States?

We have already heard from officials within your own administration that our trade with Europe is in peril if we do not implement privacy legislation. The United States as you point out is in favour of industry self-regulation. Even some European countries are not passing legislation as per the European Union directive.

Without having time to get into a scenario where Canada wholeheartedly embraces privacy legislation with all the associated regulations, court procedures, punitive damages, bureaucracy, etc., and the United States pursues self-regulation with limited government involvement, you must ask yourself what will be the impact on our trade and will some of the economic gains like increased manufacturing exports to the U.S. that Manitoba has worked so hard over the past few years to realize, be jeopardized? Will potential investors be dissuaded from investing in Manitoba when they find the data they require to make an informed business decision is not available, incomplete or the process to obtain the information is too cumbersome and time consuming? The battlefield for business success in the next millenium will be information and the speed with which you can work with it to maximize your operation. Are we not placing ourselves at a competitive disadvantage?

The situation Bill Madder of the Brandon Real Estate Board described to you where 1998 tax and assessment data was withheld by the Manitoba Government, instead of it going on the MLS® database, meant provincial and municipal employees had to manually provide information on well over 1,000 listings. It proved a great inconvenience to both REALTORS and government officials. This is just one example of great inefficiencies in terms of time and staff resources. Meanwhile, in the United States and provinces like Alberta, municipal and provincial governments are working in partnership with real estate associations. They are doing this in the interest of facilitating economic development and ensuring their real estate industries

have the best information possible to market real estate to potential investors anywhere in the world. Can we afford to be leaders in privacy legislation and enforcement at the expense of jobs and economic investment?

One final point before discussing our position on how our MLS® database relates to personal information. The position paper indicates there is a growing concern about how personal information is gathered and handled by third parties. While there have been some well-documented abuses of personal information, and we appreciate steps need to be taken to curtail that, we want to know in your opinion how widespread the abuse is to justify onerous legislation and regulations. In most cases we know the public is being advised why the information they are providing is necessary for the business in question. This in our viewpoint calls for better self-regulation and certainly industry associations can take a lead role.

As for our MLS® database, we view it as a property information database as opposed to a personal database. Our interest in a property that we market is who the owner is, not whether they happen to be an individual or corporation. We do need an address to market a property and the owner's name to verify that the sale is legitimate, or we would not be doing our job. No personal telephone numbers reside on our database.

The information on our MLS® and CLS™ system is on a need to know basis so people or investors can make one of the most important purchasing decisions of their personal or business lifetime. This information is critical to

one consumer making an informed decision about a transaction with another consumer. Only members of the Board have access to the database.

If it is a question of how the information can be provided, there is no philosophical difference between, on the one hand, searching numerous titles at Land Titles or obtaining the same information in bulk. There is no more invasion of one's privacy and this is a much more effective and cost efficient way of delivering the information from both the user and provider's standpoint.

We already alluded to our national association preparing a privacy code for our industry. Our own experience has shown the utmost respect for vendor and purchaser privacy with the intent of using the necessary information to expedite the sale or appraisal of a property. Our industry as well supports full disclosure of the terms and conditions of our agency relationship with the client or customer. Therefore, the issue of a disclaimer for the use of disclosing and searching pertinent real estate information for the purpose of selling a property is not difficult to put in place.

Besides developing a privacy code, the industry and real estate board can certainly stipulate in a contract how the information obtained will be used and how it cannot be used. We are fully capable through investigative procedures to take disciplinary action on a member if there is abuse of the use of public information. Let me reiterate that members, in our many years

of operating MLS®, have respected the integrity of the system and we do not see many, if any, problems in the area of personal information.

In conclusion, we firmly believe the personal information we obtain for our MLS® and CLS™ database is of direct benefit to the consumer in terms of selling and appraising real estate properties. We thank you for the opportunity to make a presentation and look forward to any questions you may have, as well as any requests for follow up subsequent to this public meeting.

