



GUIDE TO WRITTEN & ORAL SUBMISSIONS IN LICENSING REVIEWS FOR INDUSTRY MEMBERS

Established in 1996, the Real Estate Council of Alberta (RECA) is an independent, non-government agency, responsible for regulating industry professionals in the real estate, mortgage brokerage and real estate appraisal industries under Alberta's *Real Estate Act*. RECA conducts licensing reviews according to a process based on the requirements of the *Act* and Rules and the principles of natural justice, which promote fairness throughout the process.

There are a number of circumstances outlined in section 38.1 of the *Real Estate Act* Rules under which the Executive Director can suspend or cancel a person's licence. The Executive Director, or a person appointed by him, will conduct an evidence gathering function for the purposes of a licensing review, which will assist the Executive Director in determining whether the individual's licence should be suspended or cancelled.

This guide is intended to provide industry members with an overview of the process for written and oral submissions within a licensing review.

LEGAL REPRESENTATION

The industry member has the right to legal counsel of their choosing at any point in the licensing review process.

WHAT TO EXPECT IN WRITTEN OR ORAL SUBMISSION PROCEEDINGS IN A LICENSING REVIEW

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WHAT TO EXPECT IN WRITTEN OR ORAL SUBMISSION PROCEEDINGS IN A LICENSING REVIEW

i. EVIDENCE GATHERING

- I. Once an issue requiring a licensing review has been identified, RECA will notify the industry member.
- II. RECA will then gather evidence and information from the industry member and other relevant parties.

ii. DISCLOSURE AND SUBMISSION SELECTION

Upon completion of evidence gathering, the industry member will be provided with disclosure of all of relevant evidence and information relating to the licensing review. The industry member will have the opportunity to:

- I. Make written submissions and provide additional relevant evidence to the Executive Director or his delegate; OR,
- II. Make oral submissions and provide additional relevant evidence to the Executive Director or his delegate.

iii. WRITTEN SUBMISSIONS

If the industry member chooses to make written submissions, the following process applies:

- I. A date for supply of the written submissions will be provided to the industry member;
- II. The disclosed licensing review file and the written submissions, including any additional evidence, will be considered by the Executive Director or the Executive Director's delegate for decision making purposes;
- III. The decision maker will consider all of the information and evidence, and will render a written decision within an appropriate time after receipt of the written submissions;
- IV. The written decision will be served on the industry member.

The decision may be appealed pursuant to *Real Estate Act* Rules section 39.

iv. ORAL SUBMISSIONS

If the industry member chooses to make oral submissions, a date will be scheduled and the following participants will be present at the licensing review oral submission proceeding:

- I. Industry member
- II. Executive Director or Executive Director's delegated decision maker
- III. Licensing review case presenter
- IV. Recording clerk

A. ROLES OF THE PARTICIPANTS AT THE ORAL SUBMISSIONS PROCEEDING

Industry Member: The role of the industry member in the licensing review oral submissions proceeding is to make an oral submission and present any and all information or evidence before the decision maker. The industry member will present all relevant information and any new evidence that he or she feels is relevant to the issue. The industry member may call witnesses as part of the oral submission and may introduce documents for consideration by the decision maker.

Case Presenter: The case presenter will assist in the licensing review oral submissions proceeding. As a neutral party, the case presenter is given the task of ensuring that adequate information has been put before the decision maker so that they may be adequately informed both with regard to the facts and any suspension, including duration of same, or cancellation. The case presenter may supply research to the industry member and the decision maker. To assist the process and ensure adequate information is before the decision maker, the case presenter may ask direct questions of the industry member and any other witnesses on the evidence in order to clarify information or bring forth any relevant new information or evidence. The questions asked must be relevant either to the issue(s) or to the credibility, sincerity or integrity of the witness. Questioning by the case presenter will be done in a polite and respectful manner.

Executive Director or Executive Director Delegated Decision Maker: The decision maker will be tasked with the duty of reviewing the information or evidence, hearing the oral submissions and responses to questions, and considering all evidence for the purpose of rendering a decision. The decision maker may ask questions of the industry member and witnesses, as necessary, to ensure there is adequate available information upon which to base a decision.

Recording Clerk: A recording clerk will record the oral submissions proceedings and enter evidence as exhibits. A record is required to ensure process integrity and for the purpose of any appeal of the licensing review under *Real Estate Act* Rules section 39.

B. STEP-BY-STEP PROCESS FOR ORAL SUBMISSIONS PROCEEDING

- I. The industry member will be notified of the date for the proceeding.
- II. It is anticipated that the industry member will attend the proceeding in person. They may be represented by legal counsel at the proceeding. The industry member may make the oral submission or their legal counsel may make the oral submission. Any oral or documentary evidence submitted for consideration in the licensing review oral submissions proceeding must

be supplied through the industry member who will be requested to swear an oath or take an affirmation.

- III. The case presenter will open the proceeding by introducing the matter and describing the issue and the evidence gathered during the evidence gathering stage of the licensing review. The licensing review file disclosure containing all of the evidence gathered will be marked as an exhibit.
- IV. If the industry member will be making the oral submission, they will be requested to take an oath or affirmation and then proceed to make their oral submissions to the decision maker.
- V. The case presenter may ask the industry member questions. For this purpose, the industry member will be requested to swear an oath or take an affirmation.
- VI. The industry member may call witnesses to provide relevant evidence or may supply additional documentary evidence.
- VII. The case presenter may ask questions of the witnesses called by the industry member.
- VIII. The Executive Director or delegated decision maker may ask questions of the industry member or witnesses. In either case, they will be requested to swear an oath or take an affirmation if they have not already done so.
- IX. The matter will conclude and the decision maker will advise the participants that he or she will render a written decision within an appropriate period of time.
- X. The decision will be served on the industry member.

The decision may be appealed pursuant to *Real Estate Act* Rules section 39.

If you have questions about the licensing review process, please contact:

Industry Standards or Legal Services



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