



January 24, 2018

To: Ms. Carol Heddle Mackenzie
By Email:

Dear Ms. Heddle Mackenzie,

RE: WITHDRAWAL APPLICATION APPROVED– s.54 REAL ESTATE ACT

On January 24, 2018, the Real Estate Council of Alberta approved your application to withdraw as an industry member under *Real Estate Act (Act)* s.54.

As a result of a complaint received, an investigation was commenced concerning your conduct. An investigation was complete and the matter was referred to a hearing panel. The hearing began on Monday, August 24, 2015 and was set to continue on January 29, 30 and 31, 2018. The allegations are outlined in the Notice of Hearing attached as "Appendix A" to this approval letter. The Executive Director is not seeking costs from the applicant.

No admission or finding of conduct deserving of sanction has been made by the executive director or a Hearing Panel.

Under the *Act*, the approved withdrawal application results in conduct proceedings discontinuance and your lifetime prohibition as an industry member.

If you have questions, please contact Charles Stevenson, Director of Professional Standards.

Yours truly,

Stan Mills, Chair,
Special Meeting of the Real Estate Council of Alberta

Attach.

Real Estate Council of Alberta
Suite 202, 1506 11 Avenue SW
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Appendix A

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 003268
Process: A Hearing under Part 3 of the *Real Estate Act*
Industry Member: Carol Heddle MacKenzie
Class of License: Real Estate Associate
Registration: Registered with 1139529 Alberta Ltd. o/a Sutton Group
- Fort McMurray and currently unregistered
Document: NOTICE OF HEARING

TO: Carol Heddle MacKenzie

A hearing is set to review allegations about your conduct. Read this entire document to see what you must do.

Hearing Information

Date: Friday, June 12 2015
Time: 9:30 a.m.
Where: The Hearing Room, 3rd Floor
4954 Richard Road SW, Calgary, Alberta
Hearing Panel: Brian Klingspon
Charlie Ponde
Colleen Wetter

(Alternates: Stan Kushner, Helen Ang, Graham Lock)

It is alleged that your conduct is deserving of sanction for breaching sections of the Act or Rules. Here are the details:

1. a) You failed to disclose to a client a conflict of interest in the course of providing services to, or in dealing with a client contrary to section 58(e) of the *Real Estate Act Rules*:

- in August 2009, you offered to sell a condominium owned by you and your husband to the buyer. You also told the buyer that if she decided not to purchase the condominium, you would list it for \$20,000 more.
 - You told the buyer that if she purchased the property it would be considered a "private sale" to save the real estate fees.
 - Once you offered to sell you and your husband's home to the buyer, you had a duty to disclose that you were in a conflict of interest with the buyer.
 - You knew confidential information about the buyer's finances, her real estate needs and that the buyer was in some urgency to buy the property.
 - You intended to represent yourself and your husband and were seeking a sale of your property that would benefit both of you.
 - You did not advise the buyer of this conflict of interest and continued acting as her agent.
 - You did not advise the buyer of the conflict of interest and continued acting as her agent.
- b) You continued to act for a client when there was a conflict of interest without obtaining written consent from the client contrary to section 54(3) of the *Real Estate Act Rules*:
- You were in a conflict of interest when you decided to offer to sell your property to the buyer.
 - You did not terminate the agency relationship but continued to act as an agent and provide agency services to the buyer.
 - You did not obtain written consent of the buyer for continuing to provide services.
- c) You participated in fraudulent activity in connection with the provision of services to a client, contrary to section 42(b) of the *Real Estate Act Rules*:

- You were aware there was an upcoming special assessment on your home that you sold to the buyer. You were also aware of the approximate amount of the assessment.
 - You did not tell your client about the special assessment.
 - You said to your client that a special assessment was “never going to happen”.
 - You were reckless as to the documents you agreed to provide to your client as they did not contain all relevant documents.
 - Your conduct was intended to mislead the buyer about the special assessment and to ensure the buyer continued to rely on your advice to the benefit of you and your husband.
- d) You failed to keep your broker informed of activities being performed by you on behalf of the brokerage contrary to section 53(d) of the *Real Estate Act Rules*:
- You did not inform your broker about the sale of your property to the buyer.

Why you should attend the Hearing

The hearing is your opportunity to respond to the allegations and state your side of the case in front of the Panel.

Learn About the Hearing Process

Please read these guides on the RECA website

- *Hearing and Appeal Practice and Procedures Guidelines and*
- *Information and Unrepresented Industry Members*

They are under the *Publications and Resources* tab under the heading *Guides to Disciplinary Proceedings*.

What You Should Bring to the Hearing

Bring any witnesses and evidence you want the Panel to consider, with you to the hearing.

What Will Happen If You Don't Attend

If you do not attend the Panel may proceed to make a decision without you.

What Will Happen At the Hearing

After hearing all evidence and argument the Panel will decide whether the Executive Director has proven any of the breaches. If no breach is proven you will face no sanction.

If the panel finds a breach is proven the Panel may do one or more of the things listed in section 43 of the *Real Estate Act*:

- Cancel or suspend your authorization
- Order you to pay a fine for each breach
- Order you to pay the cost of the investigation and the hearing
- Order you to complete an education course

Make Oral and Written Arguments to the Hearing Panel

The Hearing Panel may accept oral and/or written arguments as part of the hearing.

If the Hearing Panel accepts written arguments, it will set dates for the written arguments to be exchanged before accepting them.

You Can Get Legal Advice

You may get legal advice and may be represented by legal counsel at the hearing.

If you do not have a representative please read *information for Unrepresented Industry Members*:

<http://www.reca.ca/industry/content/publications-resources/guides/htm>.

If You Object to a Panel Member

Please review who is on the Panel. If you object to any of the people being on the Panel, you must advise the Hearings Administrator who you object to and why within 14 days of receiving this Notice.

If you do not object to the Panel within 14 days, this Panel will conduct the hearing.

Postponing the Hearing

If you are not available on the date set for the hearing you can apply to the Panel for a new date. Contact the lawyer for the Executive Director and the Hearings Administrator as soon as possible if you need a new date

Dated at Calgary, Alberta, on May 11, 2015

Bob Myroniuk, Executive Director
of the Real Estate Council of Alberta

Contact Information

Hearings Administrator:	Lawyer for the Executive Director
Email:	Email:
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