

GUIDE TO MAKING A COMPLAINT: LICENSEES

This guide applies to complaints about the conduct of a person licensed by the Real Estate Council of Alberta (RECA). If your concern relates to the conduct of an unlicensed person doing activities that require a licence, please refer to the [Guide to Complaints: Unlicensed Practice](#)

This guide provides consumers with information on:

- RECA's role in handling complaints
- What you should do before you file a complaint
- How do you file a complaint with RECA
- How RECA evaluates a complaint
- What happens after RECA completes the evaluation.

Licensees include real estate associates, real estate associate brokers, real estate brokers, real estate brokerages mortgage associates, mortgage brokers, mortgage brokerages, property managers, and condominium managers.

What is RECA's role in handling complaints?

Industry Councils set the standards of practice that licensees must follow. The Registrar is responsible for investigating complaints against licensees related to alleged breaches of the [Real Estate Act and Rules](#).

The Registrar appoints investigators to review complaints and gather information treat fairly, impartially, and according to the rules of administrative law.

RECA does not investigate the fairness or legality of real estate transactions or mortgage deals, and it does not investigate the conduct of sellers, buyers, landlords, lenders, or borrowers. RECA cannot award damages or intervene in civil disputes. If you are looking to recover damages or have transactions cancelled or enforced, RECA recommends you consult with a lawyer for advice on the civil remedies available to you.

What should you do before filing a complaint?

1. Determine the nature of your concerns

Determine who is responsible for your concerns. Your licensee may not be at fault. It may be an issue with another individual that is not in RECA's jurisdiction.

RECA will refuse a complaint if it does not relate to the licensee's conduct or is outside of RECA's jurisdiction.

2. Understand the licensee's obligations to you

Consumers who review their licensees' obligations to them are better able to articulate their complaint. We recommend you review the service agreement you signed with your licensee to understand their obligations to you.

You may wish to review the standards of conduct for licensees that licensees must follow. A plain language summary appears [here](#).

3. Determine what you are seeking – accountability or compensation

RECA disciplines and holds licensees accountable when found to breach the *Real Estate Act* and Rules. We cannot recover money. If you seek compensation, you must attempt to do so through the courts. You may wish to seek legal counsel regarding compensation in a civil matter. You may pursue a civil action and a complaint with RECA simultaneously. If you decide to seek legal advice, provide your lawyer with a copy of this guide.

An exception to recovering money is if you make a claim to the Consumer Protection Fund. This claim would be for a monetary loss arising from fraud, breach of trust, or a failure to disburse or account for money held in trust by a licensee.

4. Attempt to resolve the issue

Depending on the seriousness of the alleged breach, consumers should attempt to resolve complaints with a licensee prior to making a complaint. The licensee may be able to provide an explanation for their actions.

You can also attempt to resolve the issues by contacting the licensee's broker and / or brokerage. The broker is the head of the brokerage and has a responsibility to supervise brokerage associates, ensure compliance with the Rules, and inquire into and deal with inappropriate conduct.

The broker may be able to resolve your issue quickly and easily, for example, by explaining your obligations and options in a transaction, your licensee's obligations to you, or even assigning another licensee to work with you. To find the broker, search the brokerage [here](#).

Examples of licensees' conduct accepted as complaints for further investigation

- A real estate licensee signed an Exclusive Seller Representation Agreement with a seller client. Subsequently they signed an Exclusive Buyer Representation Agreement with a buyer client. The buyer client was interested in purchasing the seller client's property. The real estate licensee drafted an offer for the buyer client to purchase the seller client's property. In this instance, RECA would accept this complaint as it relates to the real estate licensee may have failed to disclose a conflict of interest to both the seller client and the buyer client.
- A licensee emailed and texted their client using unprofessional language. In this instance, RECA would accept this complaint as the licensee might have failed to demonstrate professionalism when dealing with their client.
- A real estate licensee entered into a service agreement with only one owner of the property when in fact there were two owners. In this instance, RECA would accept this complaint as it relates to real estate licensees' requirement to provide competent service.
- For three months, a real estate brokerage licensee failed to provide to their property owner client, monthly rent payments and owner statements as outlined in their management agreements. In this instance, RECA would accept this complaint as the licensee might have failed to adhere to the terms of trust as outlined in the management agreement.
- A mortgage licensee's borrower client signs a commitment letter. The commitment is subject to various conditions, one of which is that the borrower client must have worked with the same employer for the past three years. The borrower client changes employment prior to completion of financing and the transaction collapses. In this instance, RECA would accept this complaint as the mortgage licensee might have failed to provide all relevant information to the borrower client.

Examples of licensees' conduct refused for further investigation

- A buyer complained that the seller's real estate licensee acted unprofessional in a multiple offer situation. They alleged the licensee fabricated the additional offers to get them to pay a higher sale price for the property. The licensee provided copies of the additional offers to RECA. RECA would refuse this complaint as there was no breach of the Act.
- A potential buyer alleged their real estate licensee was "rude, pushy and unprofessional". RECA requested further clarification and the buyer did not

respond. In this instance, RECA would refuse this complaint as the complainant did not include reasonable particulars.

- *A home owner complained to RECA about the behavior of a tenant in a property managed by a real estate brokerage licensee. The real estate brokerage licensee does not have an obligation to remedy disputes between neighbors. RECA would refuse this complaint, as the issues raised are not in RECA's jurisdiction.*
- *A potential buyer alleged a mortgage broker licensee failed to provide competent service and caused them to lose the opportunity to purchase the property. Information collected indicated the lender refused financing as the property was unmarketable and therefore uninsurable. RECA would refuse this complaint as there was no breach of the Act. A licensee is not responsible for lenders actions.*

Consumers may also wish to contact a RECA information officer at (403) 228-2954 or 1- 888-425-2754 (toll free) for additional information on whether they should file a complaint.

How do you file a complaint?

1. To file a complaint, please use the [online complaint form](#)
2. RECA will not accept a copy of a letter addressed to another party as a complaint.
3. You must identify the licensee you are complaining about.
4. You must provide a detailed account of the events. You must support your complaint with as much relevant information as possible, including:
 - Detailed chronological statement of events giving rise to the complaint. It is not sufficient to state your complaint in general terms or based on suspicions.
 - Copy of the applicable transaction documents i.e. listing, service agreement, offer to purchase, appraisals, commitment letters, etc.
 - Copy of any other relevant information, documents and / or records related to the transaction.

When providing supporting documents please send copies - DO NOT send originals.

5. You must agree to cooperate with RECA's investigation.
 - Cooperating with an investigation means you agree to answer RECA's questions, provide necessary information, and appear as a witness if the matter goes to a Hearing or prosecution.

6. Does RECA accept anonymous complaints?
 - RECA will review any information received about potential misconduct of a licensee. RECA however cannot guarantee a complainant's anonymity. The complainant is an important witness and their cooperation and involvement is generally required to complete an assessment of the matter and the conduct of a licensee.

You may seek assistance if required, to write your complaint. If you have difficulty filing a written complaint, please contact conductreview@reca.ca

How does RECA evaluate your complaint?

1. Is the matter in RECA's jurisdiction?
 - Is the matter related to the licensee's conduct?
 - Is the matter in relation to an activity that requires a licence?
 - Does the matter take place in Alberta?
2. Are there adequate particulars in the complaint to understand the issue?
3. Does the matter concern an alleged breach of the *Real Estate Act* or Rules?
 - Although you may disagree with a licensee, there may not be a corresponding alleged breach of the Act or Rules. Matters that do not concern an alleged breach of the Act or Rules may fall under the jurisdiction of another organization or the courts.

RECA reviews complaints solely on the evidence, without partiality, discrimination, or prejudice

What happens after RECA completes evaluating your complaint?

RECA will advise you in writing on our decision to open or dismiss your complaint, including the reasons.

RECA will likely NOT open an investigation file if:

- The conduct in question is not a breach of the *Real Estate Act* or the Rules.
- It does not identify the licensee.
- The complaint is anonymous with no context.
- The complaint is simply a suspicion.
- RECA, another organization, or the parties involved have already dealt with the complaint.

If your complaint falls under another organization's jurisdiction, RECA will provide you with suggestions on how to proceed.

If RECA does not investigate my complaint, do I have any other options?

In addition to the *Real Estate Act*, other legislation may apply to a real estate matter:

- The *Residential Tenancies Act*, *Mobile Home Site Tenancies Act* and *Condominium Property Act* are administered by Service Alberta (1-877-427-4088, www.servicealberta.gov.ab.ca).
- The *Securities Act* may be relevant to a problem with the real estate or mortgage portion of an investment portfolio and is administered by the Alberta Securities Commission (1-403-297-4296 or 1-403-297-4219, www.albertasecurities.com).
- Privacy issues can be directed to the Office of the Information and Privacy Commissioner (OIPC) (1-888-878-4044, www.oipc.ab.ca).
- If the matter is criminal, you should contact your local police force. For example, if you suspect that the licensee is involved in fraudulent activities, the police should be contacted.

Industry associations, such as real estate boards, set their own requirements and rules for their members. Complaints regarding failures to abide by those rules should be directed to the association to which the licensee belongs.

Can I appeal RECA's decision if my complaint is refused?

If RECA refuses to investigate your complaint, you may have a right to appeal. If you do have a right to appeal, you will be notified in writing and provided information on the appeal process.

Common Questions:

What if another organization is handling the complaint?

A single situation or event may trigger a review or investigation from several different perspectives. RECA is concerned with possible breaches of the *Real Estate Act* and the Rules. Other organizations may be concerned about the breach of their legislation or rules.

For example, an industry association may wish to determine whether a member abided by its rules. The police may investigate a matter to determine whether to lay criminal charges and the courts decide the civil liability of a licensee (i.e., whether or not the licensee owes you money).

Can I use information from an investigation in a civil action?

No. The *Real Estate Act* prohibits this. In all civil proceedings, the plaintiff must demonstrate their case to the courts and cannot rely on a disciplinary decision by a Hearing Panel or information collected during a RECA investigation.

Can I make a complaint to RECA if the matter has been resolved through the courts?

Yes. RECA sets the standards of practice that all licensees must follow. It investigates complaints against licensees related to alleged breaches of the *Real Estate Act* and Rules.

Does RECA take into consideration the outcome of the civil proceeding in relation to the conduct of the licensee?

RECA requires licensees to report disciplinary action from other bodies, judgments arising out of civil proceedings and prosecutions under other federal or provincial statutes. This information may result in disciplinary action against a licensee. RECA will assess the circumstances on a case-by-case basis.