

# COOPERATE WITH THE REAL ESTATE COUNCIL OF ALBERTA

Purpose: To explain an industry professional's obligation to cooperate with the Real Estate Council of Alberta.

**This bulletin applies to all industry professionals.**

Industry professionals must provide information and promptly respond to a representative of the Real Estate Council of Alberta (RECA). It is a failure to cooperate if you mislead or provide false information to RECA or do not respond in a timely, truthful and meaningful way. Refusal to cooperate is not an option. It is a breach of the *Real Estate Act* and Rules and can result in a disciplinary action. RECA decides what is relevant to a matter under review.

In *James v Real Estate Council of Alberta* the Court addressed the issue of an industry professional's duty to cooperate. Justice Macklin said:

*"It is important to note the fact that the real estate industry, like the legal profession and others, is self-regulating. RECA was statutorily created, and one of its key functions is to ensure that its members, like Mr. James, abide by the rules and Code of Conduct set by RECA for the purpose of protecting members of the public.*

*Crucial to its ability to regulate is its ability to rely on the co-operation of its members in any investigation of behaviour alleged to be contrary to the rules and code. That co-operation must be provided in all cases, regardless of the view the investigated member has of the merits of the complaint. Needless to say, if his or her view of the merits is right, the complaint will be dismissed, but that is not for the member to decide, nor is it to constitute a reason for the member not to co-operate."*

You have the opportunity to cooperate throughout the process. If you choose not to cooperate, the executive director can suspend your licence. Your licence will be reinstated when the executive director is satisfied you have fully cooperated.

You are responsible for providing a response to RECA. You cannot delegate this responsibility to your lawyer. RECA representatives will require direct evidence from you.

There are no excuses. If you do not understand the request or process, ask the RECA representative for clarification.

Privacy legislations allow you to disclose personal information about a client without the client's consent.

- when authorized or required to do so by a statute or regulation
- to comply with an order issued by a body having jurisdiction
- when it is reasonable for the purposes of an investigation or a legal proceeding
- for the purposes of protecting against, preventing, detecting or suppressing fraud or unfair trading practices

### Licensing and suitability examples

- under section 40 of the Rules, you must immediately notify the executive director when something changes in your circumstances. This may include a bankruptcy, discipline by another body, commencement of criminal proceedings, a judgment rendered against you, etc.
- at renewal of your licence, you disclose a change in your circumstances
- under section 21 of the Rules, you must notify the executive director of any changes in the information you provided at the time of your application or after RECA issues the licence
- as part of the licence application process, you give false or misleading information
- under section 32 of the Rules, a brokerage must notify the executive director when circumstance change for the brokerage or the brokerage ceases to exist

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### Professional standards

- under RECA's Trust Assurance and Practice Review program, RECA may want to clarify situations to give guidance on your practices or record keeping
- under RECA's Conduct Review process, RECA gathers information and documentation on the complaint under investigation

### Education

- when RECA opens a file alleging you have breached the Education Code of Conduct for Learners.

### Related information

#### Legislation

- *Real Estate Act* - sections 10(2), s.38(4), s.38(4.1)(4.2)
- *Real Estate Act Rules* - sections 38(h), s.41(h)
- *Personal Information and Protection Act*
- *Personal Information Protection and Electronic Documents Act*