

## Guide to Investigations: For Consumers

This guide provides consumers with information on RECA's investigative process when investigating complaints about a licensee's conduct. The process begins when the Real Estate Council of Alberta (RECA) receives a complaint or information about a licensee alleging a breach of the legislation. For information on the complaint process, refer to the [Guide to Making a Complaint: Licensees](#).

### Purpose of an Investigation

- to gather all relevant information so RECA can make an informed decision
- to treat all parties courteously, fairly, impartially, and according to the rules of administrative law
- to gather information efficiently

The purpose of an investigation and any resulting conduct proceedings is to address the conduct of the licensee.

**RECA cannot help you recover money or damages. You must pursue actions to recover deposits or other funds through the courts. Consumers should obtain legal advice without delay and should not wait until RECA's processes are complete.**

### What RECA investigates?

RECA investigates conduct that potentially:

- breaches the *Real Estate Act* (Act) or Rules
- goes against the standards of practice expected of licensees
- demonstrates incompetence, recklessness or willful wrongdoing
- puts consumers or other licensees at risk

### Who RECA investigates?

RECA investigates the conduct of licensees:

- residential real estate brokers, associate brokers, and associates
- commercial real estate brokers, associate brokers, and associates
- property managers
- mortgage brokers and associates
- condominium managers

### Does RECA investigate unlicensed persons?

RECA investigates unlicensed persons if the person engaged in activities that required a licence and that person was not licensed. This applies to individuals and corporations. To check someone's licence, click [here](#). For more information on making a complaint against an unlicensed person, refer to the [Guide to Making a Complaint: Unlicensed Practice](#)

## Understanding the Investigation Process

RECA conducts investigations according to a formal process based on the requirements of the Act and the principles of natural justice, which promote fairness throughout the process. RECA's investigation procedure is based on transparency, fairness, and impartiality.

### Cooperation from complainant

- You agreed to cooperate with the investigation process when you signed the acknowledgement portion of the complaint form.
- Cooperating with the 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.
- Without your cooperation, it is unlikely RECA will have sufficient evidence to warrant investigating the complaint further. Where matters are serious such as fraud or breach of trust, the registrar may choose to continue an investigation in the absence of a complainant's cooperation.

### We notify the complainant and the licensee that investigation is underway

- RECA provides the licensee with written notification when opening an investigation, which may include a copy of the letter of complaint. RECA asks the licensee to answer questions in writing and to submit requested documents.

### We gather all relevant information

- The investigator may gather statements and documents from other sources in addition to the information provided by the complainant and licensee.

### What happens at an investigation's conclusion?

- Information is presented in an investigative report to the Registrar to make a decision.
- The Registrar may conclude insufficient evidence or conduct deserving of sanction.
- When appropriate, the Registrar may refer the matter to a Hearing Panel, who will make a decision after hearing all statements and evidence
- We notify all parties of the outcome of an investigation
- Parties may have a right to appeal the decision

## Frequently Asked Questions – Investigation Process & Confidentiality

### How long does an investigation take?

Each investigation is different and the time required depends on the circumstances of the case. RECA understands licensees and complainants usually want to deal with the issue as quickly as possible. However, due process required under the Act and the principles of natural justice take time.

RECA must give a complainant and a licensee adequate opportunity to explain what happened and answer questions. RECA must gather and verify all documents, including from outside sources, and prepare a full investigative report. Though time-consuming, failure to follow the process could have a negative impact on the public or licensees.

### Am I responsible for the investigation against a licensee?

Complainants often initiate investigations, but they are not responsible for the investigation, and an investigation may continue even if a complainant withdraws their complaint. RECA's focus is public protection.

### Will RECA contact me or request information during the investigation?

RECA may contact you several times during the investigation to interview you or gather information and documents related to the investigation. This may include requests for your personal records. For example, RECA may require phone records to show a particular phone call took place, or bank records to show you paid a deposit to the licensee. RECA will only request information that is relevant to the investigation.

### Is information gathered during an investigation confidential?

RECA shares information gathered during an investigation only as far as the investigation process requires or when required by law.

Licensees may receive a copy of the complaint that led to the investigation. Additionally, RECA may share certain information or documents with witnesses to confirm their accuracy or to obtain their statements and evidence. RECA requires this exchange of information to meet the requirements of natural justice. It enables the licensee to know all relevant facts gathered and give them an opportunity to respond.

If the matter proceeds to a hearing or prosecution, RECA must disclose all information gathered during the investigation to the licensee affected. Since hearings are public proceedings, information gathered during an investigation and disclosed to the licensee may become public at a hearing.

### Will the investigator record my conversations?

Yes. RECA electronically records interviews with complainants and witnesses. This ensures the integrity of the investigation by providing an actual record of what was said. Recording interviews ensures an investigation follows RECA's policies and procedures.

### Can a licensee choose to withdraw from the industry?

Under section 54 of the Act, a licensee may apply to their Industry Council to withdraw permanently from the industry if their conduct is the subject of an investigation or conduct proceedings, or if they suspect their conduct may become the subject of proceedings. This is only possible when the conduct in question is not criminal in nature. Once an Industry Council approves this withdrawal, all investigations into their conduct as a licensee are discontinued.

### Will RECA inform me about the outcome of an investigation?

Yes. A complainant receives notice in writing of the outcome of an investigation. Generally, the complainant will also receive a phone call to explain the decision.

If RECA refers the matter to a hearing panel, the file is administered by RECA's Conduct Proceedings Unit (legal department), who will contact the complainant.

### Is there anything I can do if I disagree with the outcome of an investigation?

If RECA closes the file for insufficient evidence and RECA takes no further action following an investigation, complainants have the right to appeal to a hearing panel by providing written notice to the registrar within 30 days of receiving notice.

### RECA's publication policy for outcomes

RECA summarizes all enforcement actions (e.g., hearings, consent agreements, letters of reprimand, and administration penalties) in RECA's Case Summaries newsletter in accordance with RECA's policy. RECA distributes Case Summaries to licensees and publishes it at [reca.ca](http://reca.ca). RECA also posts enforcement actions in full on [reca.ca](http://reca.ca), including notices of licensees who withdraw from the industry under section 54 of the Act.

FOR MORE INFORMATION ON INVESTIGATIONS, PLEASE CONTACT:

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