

August 1, 2017
September 5, 2017

Case Summaries

Letters of Reprimand

Administrative Penalties

Suspension



Case Summaries

Welcome to the Case Summaries monthly magazine - available on the first Monday of every month.

Inside you will find the summaries for all disciplinary decisions occurring at the Real Estate Council of Alberta (RECA) since the previous newsletter, including any suspensions and approved lifetime withdrawals from the industry.

RECA is authorized to carry out conduct proceedings under [Part 3](#) of the *Real Estate Act*.

To review RECA's Publication Guidelines, click [here](#).

For more information about the cases summarized in this publication, please click on the underlined blue heading at the start of each summary.

Letters of Reprimand

Two real estate associates

- failure to immediately notify, in writing, the executive director [s.40(1)(g) of the *Real Estate Act Rules*]

Section 40 of the *Real Estate Act Rules* requires industry members to immediately notify the executive director when certain events occur. Immediately is defined as “without delay,” and in the absence of extraordinary circumstances, written notification to the executive director should occur no more than five days after the event in question. In both of these cases, the associates took months to notify the executive director. This amount of time does not constitute immediate notification.

Real estate associate

- industry members must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so [s.42(a) of the *Real Estate Act Rules*]
- industry member misrepresented condition of property

In this case, the associate misrepresented the condition of the roof in the listing. The listing stated that the roof was replaced in 2016, when only repairs were performed. Real estate professionals have a responsibility to ensure the information in their listings is accurate.

Letters of Reprimand

Real estate associate

- industry members must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so [s.42(a) of the *Real Estate Act Rules*]
- industry member misrepresented the size of a semi-detached duplex.

Section 42 of the *Real Estate Act Rules* states that industry professionals cannot make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so. In this case, the associate misrepresented the property size. The associate took and used measurements from both the interior and exterior of a semi-detached duplex. Using both of these measurements failed to represent the property according to Residential Measurement Standard guidelines. Real estate professionals are to measure semi-detached properties and attached properties using paint-to-paint, and can only represent one size as the RMS size.

Two real estate associates

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- the associate did not take steps to ensure the property was measured using the Residential Measurement Standard (RMS)

The Residential Measurement Standard requires real estate professionals to personally measure, or engage a qualified person to measure, all properties they are listing for sale. In these cases:

- an associate used a measurement from a listing in 2016 when listing the property in 2017. The previous measurement was taken before RMS guidelines were in effect. The associate should have obtained new measurements that met the RMS for the listing.
- an measured the rooms of the unit, but also measured the exterior of the attached property, and represented both measurements as the RMS size. Real estate professionals are to measure attached properties using paint-to-paint measurements.

Letters of Reprimand

Real estate associate

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- failed to obtain Dower Consent prior to listing property

Real estate professionals have a responsibility to ensure parties sign required documents. In this case, the real estate professional was working with a seller. At the beginning of the listing, the real estate professional indicated to the seller that the seller's estranged wife would need to sign a Dower Consent document. That did not occur. The real estate professional entered into a new listing for the property with the seller four months later, even though the Dower Consent document was still not signed. Eventually, the property sold, but a judicial release was needed because the Dower Consent was never signed. The real estate professional should have ensured the Dower Consent document was signed much sooner in the process, and certainly before the second listing

Real estate associate

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- as an industry professional showing properties, it is important to ensure you are in the care and control of the property at all times. That includes allowing access only to people who have permission to be on the property

When showing properties, real estate professionals need to ensure proper care and control of the property at all times. That includes allowing access only to those who have permission to be on the property. In this case, the associate allowed an individual to access the property without consent from the seller's associate, even knowing that the individual did not have access to the property. The associate should have contacted the seller's associate before granting access to the property.

Letters of Reprimand

Real estate associate

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- industry member failed to explain the contract and the clauses at the time of signing. The failure to explain the clauses led to the client misinterpreting a portion of the contract.

Industry members have a duty to explain the contract to their clients. Ensuring the contract and its clauses are explained assists the client in understanding the contract and their obligations under the contract. If a client asks you to just go over the highlights of the contract, you must explain that all terms of the contract are important and should be reviewed prior to signing a contract. Ensuring a client understands all terms to a contract should never be sacrificed in an effort to complete the process quicker.

Walaa Rene Yacoub Loutfi

Not licensed

- acting as a mortgage broker without authorization [s.17(b) of the *Real Estate Act*]
- Mr. Loutfi solicited a person to borrow money on behalf of another person and negotiated a mortgage transaction on behalf of a lender. These activities require authorization as a mortgage broker/associate, and Mr. Loutfi was not authorized.
- \$25,000

Mr. Loutfi was previously authorized as a mortgage broker in Alberta, but permanently withdrew from the industry in 2011. As such, he is not authorized, and is permanently prohibited from industry membership. Mr. Loutfi indicated to RECA that he did not contact borrowers or introduce borrowers to a lender, but rather provided administrative services to the lender. RECA found the evidence gathered during the investigation did not support Mr. Loutfi's statements, and that through his conduct he was providing mortgage brokerage services without an authorization.

David Stephen Kennedy

Real estate broker registered to Manor Management Ltd.

- failed to cooperate fully [s.41(h) of the *Real Estate Act Rules*]
- \$1,500

Industry professionals have an obligation to fully cooperate with an investigator when requesting information for the purpose of the investigation. Fully cooperating means providing the information requested within the required timeline. In this case, RECA attempted to get information and responses from Mr. Kennedy multiple times. Mr. Kennedy at various times either ignored RECA's requests or asked for extensions. Eventually Mr. Kennedy provided a response but it was after prolonged efforts by RECA. Mr. Kennedy's conduct falls below the standard of cooperation RECA requires from industry professionals.

Administrative Penalties

[Sukhwinder Singh Randhawa](#)

Real estate associate registered to Re/Max River City

- failed to provide competent service [s.41(b) of the *Real Estate Act* Rules]
- the associate did not take steps to ensure the property was measured using the Residential Measurement Standard (RMS)
- \$1,500

The Residential Measurement Standard (RMS) requires real estate professionals to personally measure, or engage a qualified person to measure, all properties they are listing for sale. In this case, the real estate professional used measurements from the condominium plan, and did not measure or engage someone to measure the property.

[Jeff Neustaedter](#)

Real estate associate registered to Re/Max House of Real Estate

- failed to provide competent service [s.41(b) of the *Real Estate Act* Rules]
- the associate did not take steps to ensure the property was measured using the Residential Measurement Standard (RMS)
- \$1,500

[John Richard Klassen](#)

Real estate associate registered to Re/Max Landan Real Estate

- failed to provide competent service [s.41(b) of the *Real Estate Act* Rules]
- the associate did not take steps to ensure the property was measured using the Residential Measurement Standard (RMS)
- \$1,500

The Residential Measurement Standard (RMS) requires real estate professionals to personally measure, or engage a qualified person to measure, all properties they are listing for sale. In these cases, the associates misrepresented a property size, and did not ensure that the property was measured using the RMS guidelines.

Administrative Penalties

Sukhjeet Singh Sall

Real estate associate registered to Urban-Realty.ca

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- the associate did not take steps to ensure the property was measured using the Residential Measurement Standard (RMS)
- \$1,500

Jostein Havre

Real estate associate registered to Re/Max First

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- the associate did not take steps to ensure the property was measured using the Residential Measurement Standard (RMS)
- \$1,500

The Residential Measurement Standard (RMS) requires real estate professionals to personally measure, or engage a qualified person to measure, all properties they are listing for sale. In these cases, the real estate professionals used builder plan measurements, and did not measure or engage someone to measure the property. Real estate professionals can only use builder plans to obtain measurements when the property is not built yet.

Warren Constantine Phipps

Real estate broker registered to Mountain Park Real Estate Ltd.

- Mr. Phipps failed to ensure changes to the terms of a management agreement were in writing and signed by all parties, contrary to Section 43(2)(c) of the *Real Estate Act Rules*.
- \$1,000

Any changes to a written service agreement must be in writing and signed by all parties. In this case, the management fee was changed but was never signed by the clients. Because this was not in writing there was confusion. As soon as there was a verbal agreement to change terms of the written agreement, those changes should have been put in writing and signed by all parties.

Administrative Penalties

Daniel Bruce Sekora

Real estate broker registered at Maximum Realty Inc.

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]
- \$1,000

Nicholas Anthony Lima

Real estate associate registered to Maxwell South Star Realty

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]
- \$1,000

Section 40 of the *Real Estate Act Rules* requires industry members to immediately notify the executive director when certain events occur. Immediately is defined as "without delay," and in the absence of extraordinary circumstances, written notification to the executive director should occur not more than five days after the event in question. The industry members in these cases waited months to notify the executive director. Industry members can submit their notification at any time through the myRECA system.

Administrative Penalties

Simon Yook Chong

Real estate broker registered at Re/Max Real Estate (Edmonton) Ltd.
o/a Re/Max Real Estate

- failed to obey all lawful instructions of the seller [s.57(d) of the *Real Estate Act Rules*]
- failed to discuss “as is” clause with buyers’ agent as instructed by the sellers.
- \$2,500

Real estate professionals have a responsibility to obey all lawful instructions of the seller. In this case, the seller wanted an “as-is” clause put into their counter offer regarding a structure on their property. The seller agent agreed to discuss it with the buyer’s agent, and told the seller he did, but he didn’t. In not discussing it with the buyer’s agent, the real estate professional failed to follow the seller’s lawful instructions. The sellers ultimately countered with an offer that the buyers accepted, but the counter offer did not contain an as-is clause. Real estate professionals must ensure they obey all lawful instructions from their clients, even if they believe that doing so may lead to a less favourable outcome.

Joe Randy Fournier - Real Estate Licence Suspended

On August 2, 2017, the Real Estate Council of Alberta (RECA) suspended the real estate licence of Joe Randy Fournier. RECA suspended Mr. Fournier for refusing to cooperate with a person conducting an investigation.

As a result of this suspension, Joe Randy Fournier may not trade in real estate in Alberta. His suspension will continue until the executive director is satisfied he has cooperated with the investigation.

Mr. Fournier was most recently registered as a real estate associate with Re/Max Grande Prairie.

2016-2017 Council Members

KRISTA BOLTON, PAST-CHAIR

Appointed from the public

BONNY CLARKE

Appointed from non-AREA industry members

BOBBI DAWSON

Appointed from the boards outside of Calgary and Edmonton

RAMEY DEMIAN

Appointed from the industrial, commercial and investment real estate sector

TONY DHALIWAL

Appointed from the public

BILL KIRK

Appointed from the Calgary Real Estate Board

BRIAN KLINGSPON, CHAIR-ELECT

Appointed from the REALTORS® Association of Edmonton

PHIL MCDOWELL

Appointed from the mortgage brokerage sector

STAN MILLS

Appointed from the boards outside of Calgary and Edmonton

ROBYN MOSER

Appointed from residential real estate industry members

ROBERT TELFORD

Appointed from the real estate appraisal sector

CHRISTINE ZWOZDESKY, CHAIR

Appointed from the property management sector

RECA Management

BOB MYRONIUK

Executive Director

KIRK BACON

Deputy Executive Director

DALE CAWSEY

Director of Corporate Services

JOSEPH FERNANDEZ

Registrar

JEAN FLANAGAN

General Counsel

CHARLES STEVENSON

Director of Professional Standards

CONTACT RECA

Case Summaries are published by the Real Estate Council of Alberta.

Please forward any questions regarding the content of Case Summaries, or any questions regarding licensing or mandatory education, to info@reca.ca



Suite 350, 4954 Richard Road SW,
Calgary, AB T3E 6L1
Phone (403) 228-2954 - Toll-free 1-888-
425-2754
Fax (403) 228-3065
www.reca.ca