



# Privacy Policy, Practices & Procedures

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# PRIVACY POLICY, PRACTICES & PROCEDURES

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## RECA Privacy Information

### 1 DEFINITIONS

Act means the *Personal Information Protection Act, SA 2003, C P-6.5*

Business contact information means an individual's name, position name or title, business telephone number, business address, business e-mail, business fax number and other similar business information used to contact an individual in his or her capacity as an employee of an organization

Collection means gathering, acquiring, recording, photographing or obtaining personal information from any source, and by any means

Commissioner means the Information and Privacy Commissioner appointed under the *Freedom of Information and Protection of Privacy Act, RSA 2000, c F-25*

Complainant means an individual who lodges a complaint with RECA

Disclosure means showing, telling, sending, or giving personal information to some other individual or organization or the public, but does not include use of the information within RECA

Employee means an individual employed by RECA and includes an individual who performs a service for or in relation to or in connection with RECA as an apprentice, volunteer, participant or student, or under a contract or an agency relationship with RECA

Member means an industry member of RECA

Personal employee information means, in respect of an individual who is an employee or a potential employee, personal information reasonably required by RECA that is collected, used or disclosed solely for the purposes of establishing, managing or terminating an employment relationship or a volunteer work relationship between that individual and RECA, but does not include personal information about the individual that is unrelated to that relationship

Personal information means information about an identifiable individual

PIPA means the *Personal Information Protection Act, SA 2003, C P-6.5*

Professional Act means an enactment under which RECA is organized and that provides for the membership in and the regulation of the members of the professional or occupational group or discipline including such matters as registration, competence, conduct, practice and discipline of its members (the *Real Estate Act*)

Professional regulatory organization means an organization incorporated under a professional Act (Real Estate Council of Alberta)

REA means the *Real Estate Act, R.S.A. 2000 c.R-5*

RECA means the Real Estate Council of Alberta

Use means employing personal information to carry out purposes identified by RECA or other purposes permitted by the policy

## 2 INTRODUCTION

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The Real Estate Council of Alberta (RECA) is committed to protecting the privacy and confidentiality of personal information of members of the public and professional industry members. In this policy, personal information means information that reveals a distinctive trait about or helps to identify an individual and is not available in the public domain. It does not include business contact information.

RECA is responsible for maintaining and protecting all personal information that is either in its custody or under its control. In carrying out its responsibility, RECA will do what a reasonable person would think is appropriate in the circumstances.

RECA is a regulatory body with education, licensing, professional member conduct and standards investigative and disciplinary proceedings and enforcement powers under the *Real Estate Act (REA)*.

Depending on circumstances, RECA may record personal information by way of digital recording or other technique. The recording may be collected, used and disclosed with or without consent of an individual in accordance with the *Personal Information Protection Act (PIPA)* and the *REA*.

The person responsible for RECA's compliance with the *(PIPA)* and RECA's Privacy Policy is RECA's Executive Director. The Executive Director has appointed Jean Flanagan, General Counsel, to the position of Chief Privacy Officer as his delegate in regard to RECA's privacy obligations and she will answer questions about the purposes of collection, use and disclosure of personal information and assist in handling requests or complaints relating to RECA's obligations under PIPA.

RECA will comply with the requirements of the *PIPA* and *REA* and will use fair and reasonable practices to meet its obligations under *PIPA*.

## 3 CONSENTING TO THE COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION

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- 3.1 RECA will request consent for the collection, use and disclosure of personal information from the individual to whom the information relates prior to collecting, using or disclosing that information as required by *PIPA*.
- 3.2 RECA is permitted to collect, use or disclose personal information without consent in the specific circumstances set out in Article 4.4 (collection without consent), Article 6.2 (use without consent), and Article 7.2 (disclosure without consent).

- 3.3 RECA will not require an individual to consent to the collection, use or disclosure of personal information as a condition of providing a service to the individual unless the collection, use or disclosure is required to carry out a purpose identified in Article 4.2.
- 3.4 Application for licensing and registration made by an individual constitute implied consent for RECA to collect, use and disclose the individual's personal information for the relevant purposes identified in Article 4.2.
- 3.5 An individual may change or withdraw consent by giving RECA reasonable notice of this as long as such would not change or frustrate a legal obligation between the individual and RECA. When RECA receives such a notice, RECA will inform the individual of the likely consequences, if any, of changing or withdrawing consent.
- 3.6 RECA will obtain consent to the collection, use or disclosure of personal information without giving false or misleading information about the collection, use or disclosure or using deceptive or misleading practices.
- 3.7 RECA will obtain express consent wherever possible. In determining what form of consent to use, RECA will take into account the sensitivity of the personal information and the reasonable expectations of individuals. RECA may obtain consent in person, by telephone, by mail, facsimile or via the internet (e-mail).

## 4 COLLECTING PERSONAL INFORMATION

- 4.1 RECA will only collect personal information for purposes that are reasonable and only to the extent that is reasonable for meeting the purposes for which the information is collected.
- 4.2 RECA will collect personal information for the following purposes (referred to in this policy as "identified purposes"):
- Creating and maintaining records about pre-licensing education and eligibility;
  - Creating and maintaining records about applications for and obtaining and renewing licences and registrations (authorizations) as an industry member;
  - Conducting suitability reviews;
  - Conducting licensing information reviews;
  - Keeping records about suspended, cancelled or reinstated industry members;
  - Creating and maintaining records about industry members fulfilling post-licensing or other education requirements;
  - Processing complaints about industry member misconduct and investigating those complaints;
  - Conducting hearings and appeals concerning complaints against industry members;
  - Conducting inspections;
  - Conducting unlicensed practice investigations and enforcement;

- Processing Assurance Fund Claims;
- Meeting other RECA legal and regulatory requirements.

4.3 RECA will only collect personal information directly from the individual the information is about unless the individual consents to the collection of information from another source, or the information may be collected without consent under Article 4.4.

4.4 RECA may collect personal information without consent of the individual in the following circumstances and as set out in *PIPA*:

- When a reasonable person would consider that it is clearly in the interests of the individual and RECA cannot obtain consent in a timely way or the individual would not reasonably be expected to hold back consent;
- When the *REA*, *PIPA*, or another Act or regulation requires or allows for collection without consent;
- If the collection is reasonable for the purposes of an investigation or legal proceeding;
- If RECA is determining whether an individual is suitable for an honor, award or other similar benefit;
- If the information is needed to collect a debt owing to RECA;
- If the information is publicly available as defined in the *PIPA* Regulation;
- If the information can be disclosed to RECA without consent; or
- If the collection meets the requirements for archival purposes or research set out in the *PIPA* Regulation and it is not reasonable to obtain the individual's consent.

4.5 RECA may use a service provider outside Canada to collect, use, disclose, or store the personal information of an individual.

## 5 NOTIFICATION

In accordance with *PIPA* and section 13 of the *REA*, notification will be made before or at the time of collecting personal information about an individual from the individual. RECA will notify the individual in writing or orally

- as to the purposes for which the information is collected, and
- the name of the person, Warren Martinson, Chief Privacy Officer, who is able to answer on behalf of RECA the individual's questions about the collection.

## 6 USING PERSONAL INFORMATION

6.1 RECA will use personal information for purposes that are reasonable, for the identified purposes in Article 4.2, and will only to the extent reasonable for meeting the purposes for which the information is used.

6.2 RECA will only use personal information without the individual's consent as set out in PIPA including but not limited to:

- When a reasonable person would consider that it is clearly in the interests of the individual and RECA cannot obtain consent in a timely way or the individual would not reasonably be expected to hold back consent;
- When the *REA*, PIPA, or another Act or regulation requires or allows for collection without consent;
- If the collection is reasonable for the purposes of an investigation or legal proceeding;
- If RECA is determining whether an individual is suitable for an honor, award or other similar benefit;
- If the information is needed to collect a debt owing to RECA;
- If the information is publicly available as defined in the *PIPA* Regulation;
- If the information can be disclosed to RECA without consent; or
- If the collection meets the requirements for archival purposes or research set out in the *PIPA* Regulation and it is not reasonable to obtain the individual's consent.

## 7 DISCLOSING PERSONAL INFORMATION

7.1 RECA will only disclose personal information for purposes that are reasonable and to the extent that is reasonable for meeting the purposes.

7.2 RECA will only disclose personal information without the individual's consent as set out in *PIPA* including but not limited to:

- The disclosure is authorized or required by statute or regulation of Alberta or Canada, a bylaw of a local government or by legislative instrument of a professional regulatory organization.
- The disclosure is necessary to comply with an audit or inspection authorized by a statute or regulation of Alberta or Canada;
- To comply with a subpoena, warrant, or order issued by a court or person or body having jurisdiction to compel the production of information or with a rule of court relating to the production of information;
- The disclosure is to a public body (under the *Freedom of Information and Protection of Privacy Act*) or to help in an investigation or a law enforcement proceeding;
- To collect a debt owed to the organization;
- It is reasonable for purposes of an investigation or a legal proceeding;
- It is for the purposes of protecting against, or for the prevention, detection, or suppression of fraud, as set out in *PIPA*.

## 8 ACCESS TO PERSONAL INFORMATION

8.1 In accordance with *PIPA* and the *REA*, RECA may disclose business contact information and records to carry out its administrative functions. RECA will disclose to the public on an individual record basis, business contact information and in

particular an industry member's name, license classification, whether the individual is currently licensed and registered, the brokerage's name, business address, business telephone number, business e-mail address, if available, and facsimile number.

- 8.2 Subject to *PIPA*, RECA will not provide public access/disclosure to personal information including personal information that:
- violates an individual's right to privacy, unless that individual consents to the release of the personal information, or unless required by law;
  - violates a legally recognized privilege;
  - impairs the ability of RECA to ensure a fair, safe and informed marketplace;
  - deals with a complaint, investigation/inspection;
  - involves information on the conduct of business by the Council, its committees, or task forces.

## 9 ACCESS TO PERSONAL INFORMATION PROCEDURE

- 9.1 RECA encourages individuals to informally request information from RECA, through the Chief Privacy Officer, as a first step in obtaining information about RECA's privacy practices and procedures. Information that is routinely available includes licensing information, annual reports, audited financial statements, newsletters, policies, REA information bulletins, and hearing and appeal decisions.

On request and if the personal information is not subject to the exceptions in *PIPA*, *REA* or other restraint, RECA will provide an individual with information concerning the existence, use, and disclosure of his or her personal information.

- 9.2 When information cannot be obtained through the informal route, a formal request in writing may be submitted to:

Warren Martinson  
Chief Privacy Officer  
Real Estate Council of Alberta  
202, 1506 11 Ave SW Calgary,  
AB T3C 0M9

- 9.3 A request must be in writing, addressed to the Chief Privacy Officer, and must describe the personal information requested.
- 9.4 RECA may require an applicant to give RECA evidence of his or her identity so RECA can ensure that the applicant has the right to access the individual's personal information but RECA will only use such information for the purpose of identification and authentication.
- 9.5 RECA will respond with a reply within 45 calendar days of receipt of the request. Reasons will be provided when disclosure is not provided to a record or personal information along with a description of how to request a review of the decision.

- 9.6 RECA may refuse access to all or part of an applicant's personal information in accordance with *PIPA* including the following situations:
- the information is protected by any legal privilege
  - the disclosure of the information would reveal confidential business information and it is not unreasonable to withhold the information;
  - the information was collected for an investigation or legal proceeding or if released would affect the integrity of the investigation or hinders the investigation;
  - the disclosure of the information might result in that type of information no longer being supplied and it is reasonable that the type of information be supplied; or
  - the information was collected by a mediator or arbitrator.
- 9.7 RECA will refuse access to all or part of an applicant's personal information in accordance with *PIPA* including the following situations:
- the disclosure of the information could reasonably be expected to threaten the life or security of another individual;
  - the information would reveal personal information about another individual;
  - the information was collected for an investigation or legal proceeding; or
  - the information would identify the individual who gave an opinion about another individual and the individual giving the opinion does not consent to the disclosure of his or her identity.
- 9.8 If RECA is reasonably able to sever the information contained in the above exceptions from a requested record, RECA will give access to the remainder of the information in the record.
- 9.9 RECA will inform the applicant if he or she will be given access to all or part of his or her personal information. If access is to be given, RECA will inform the applicant of when access will be given. If access to all or part of the applicant's personal information is refused, RECA will inform the applicant of the reasons for refusal and the specific exception(s) to the right of access contained in the Article(s) of this Policy and *PIPA* on which the refusal is based. RECA will also inform the applicant of the name of the person in the organization who can answer questions, the Chief Privacy Officer, regarding the refusal, and of the applicant's right to ask the Commissioner for a review of RECA's decision to refuse access.

## 10 ACCURACY

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- 10.1 RECA will ensure that personal information used or disclosed by it will be sufficiently accurate, complete and up to date.
- 10.2 RECA will update personal information about members and employees as and when necessary to fulfill the identified purposes or upon notification by the individual.

- 10.3 RECA will keep personal information accurate and up to date based upon information provided by industry members. Industry members will be reminded periodically through the newsletter of their statutory obligation to keep licence and registration information accurate and up to date.
- 10.4 RECA will record changes to personal information received from industry members within ten working days.
- 10.5 When an individual disagrees with the accuracy of their personal information received from a formal request, the individual is entitled to request a correction. The request for correction must be in writing and addressed to the Chief Privacy Officer. If the correction is refused, the individual may require RECA to attach a Statement of Disagreement to the file.

## 11 PROTECTION ---

- 11.1 RECA will use reasonable security safeguards to protect personal information against such risks as loss or theft, unauthorized access, disclosure, copying, use, modification or destruction.
- 11.2 RECA will protect personal information using physical, administrative and technical safeguards that are appropriate to the sensitivity of the information.

## 12 RETENTION ---

- 12.1 RECA will keep personal information only as long as it remains necessary or relevant for the identified purposes or as required by law.
- 12.2 RECA will maintain reasonable and systematic controls, schedules and practices for information and records retention and destruction which apply to personal information that is no longer necessary or relevant for the identified purposes or required by law to be retained. RECA will destroy, erase or make such information anonymous.

## 13 SERVICE PROVIDER OUTSIDE OF CANADA ---

- 13.1 For the purposes of electronic communication with licensees and other individuals, RECA may store personal information about an individual in the United States.

## 14 PROCEDURE FOR HANDLING COMPLAINTS ---

- 14.1 An individual who believes that RECA has not complied with this policy has the right to make a written complaint about the matter to RECA. RECA will use internal complaint handling procedure to investigate and attempt to resolve the matter.
- 14.2 A formal request or complaint about RECA's compliance with PIPA and the personal information privacy policy, practices and procedures may be made to the RECA Chief Privacy Officer. The complaint must be in writing and a response in writing will be provided within 45 calendar days of the receipt of the request or complaint.

- 14.3 An individual has the right to make a complaint to the Information and Privacy Commissioner or to ask the Commissioner to review a decision RECA has made. However, individuals are encouraged to use RECA's internal complaint handling procedure first.
- 14.4 RECA will provide the complainant with appropriate assistance to ensure that the complainant has equitable access to the complaint handling procedure.
- 14.5 RECA may decide not to investigate a complaint if:
- the complaint relates to an act or practice that is not a possible breach of the privacy of an individual
  - the complaint relates to an act or practice that is no longer reasonably able to be investigated because of the length of time since it occurred
  - the act or practice relates to an event which occurred prior to the organization being subject to this policy
  - the complaint is trivial, frivolous or vexatious or
  - the complaint relates to an act or practice that is the subject of court proceedings that have commenced or are intended to be commenced
- 14.6 With the exception of complaints that RECA has decided not to investigate as in Article 14.5, RECA will investigate and respond to all complaints within a reasonable period of time. If the complaint is found to be justified, RECA will take appropriate steps to resolve the complaint including, if necessary, amending our policies and procedures.
- 14.7 A complainant will be expected to provide full details of how the complaint arose, including the identification of the parties involved, if known, copies of any relevant documentation and reasons why the complainant believes his or her privacy may have been breached.
- 14.8 A complainant may be represented by legal counsel or other advocate.
- 14.9 RECA will inform the complainant of the outcome of the investigation regarding his or her complaint.

## 15 FEES

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- 15.1 There will be a \$0.50 fee per page for photocopying of records with a minimum \$5 fee.
- 15.2 An Employment History will be provided to the individual to whom it relates, or to another person with the consent of the individual, in accordance with section 7 herein. Personal information will otherwise be provided as set out herein.

RECA charges fees for the production of records and these amounts may vary from time to time.

15.3 RECA will provide personal information to the person to whom it relates on both an informal basis and through a formal request. Fees for photocopying will apply.