

## THE REAL ESTATE COUNCIL OF ALBERTA

**Case:** 005064  
**Process:** Appeal of Hearing Panel Decision  
s.48 of the *Real Estate Act*  
**Person Appealing:** Mehboob Ali Merchant  
**Document:** NOTICE OF RECORD ON APPEAL AND CROSS  
APPEAL

**To:** Mehboob Ali Merchant

A hearing is set for your appeal. Read this entire document to see what you must do.

### Appeal Hearing Information

**Date:** Tuesday, March 17, 2020  
**Time:** 9:30 a.m.  
**Location:** The Nakiska Room, 2<sup>nd</sup> Floor  
1506 11 Avenue SW, Calgary, Alberta  
**Appeal Panel:** Arlene Blake - Hearing Panel Chair  
Junaid Malik - Industry Member  
George Pelechaty - Industry Member  
(Alternates: David Hicks, Rich Potter, Susan Rabbitte)  
Marc Matras - Panel Independent Legal Counsel

### The Record of the Hearing Panel Decision

Enclosed is the transcript from the original hearing and copies of all documents that were entered as evidence in the hearing. This is called the "record". Your appeal must be based on the record of the hearing (see section 50(1) of the *Real Estate Act*).

## Exchange of Written Arguments before the Hearing

Write a summary of why you are appealing for the Appeal Panel to review before the hearing. Limit the summary to 10 pages and address the following:

- What part of the Hearing Panel decision are you appealing: the finding of breach, the sanction, and/or the costs
- Your reasons for your appeal: why is the decision wrong
- What in the Record supports your reasons
- Is there any law (past decisions, legal cases or legislation) that supports your reasons

Send your summary by email, fax or mail to the **Hearings Administrator** and the **Lawyer for the Executive Director** (contact information below) by **Thursday, January 24, 2020**.

The Executive Director has **3 weeks** to reply, by **February 14, 2020**. You will receive a copy of this reply.

The Executive Director is also appealing this matter. Their appeal summary will be sent to you by **Thursday, January 24, 2020** as well.

You have **3 weeks** to reply, by **February 14, 2020**. The Executive Director will receive a copy of this reply.

The Appeal Panel will receive your summary, the Executive Director's summary, your reply, and the Executive Director's reply before the hearing. Each member of the Appeal Panel will have a copy of the Record.

## **You need Permission to use New Evidence**

An appeal is not a rehearing. It is a review by the Appeal Panel of the decision the Hearing Panel made and how it reached that decision. The Appeal Panel reviews the Record.

If you want to use new evidence in your appeal you must explain to the Appeal Panel

- Why you need the new evidence and
- Why you didn't use it in the first hearing

If your appeal is based on new evidence, contact the Hearings Administrator **immediately**. You will need to submit an application to the Appeal Panel before the hearing requesting the new evidence by heard s.50(2)(b) of the *Real Estate Act*.

## **Why You Should Attend the Appeal Hearing**

The hearing is your opportunity to argue your side of the case in front of the Panel.

## **Learn About the Hearing Process**

Please read these guides on the RECA website

- *Hearing and Appeal Practice and Procedures Guidelines and*
- *Information for Unrepresented Industry Members*

They are under the *Publications and Resources* tab under the heading *Guides to Disciplinary Proceedings*.

## **What Will Happen if You Don't Attend**

If you do not attend the Panel may proceed to make a decision without you.

## What Will Happen at the Hearing

After reviewing the Record and hearing all arguments the Panel must do one of the following under **section 50(4)** of the *Real Estate Act*:

- Make a finding or order that, in its opinion, ought to have been made by the hearing panel.
- Quash, confirm or vary any finding or order of the hearing panel or substitute or make a finding or order of its own.
- Refer the matter back to the hearing panel for further consideration in accordance with any direction that the Appeal Panel makes.
- Order you to pay the cost of the Appeal if you are unsuccessful.

## You Can Get Legal Advice

You may get legal advice and may be represented by legal counsel at the hearing.

If you do not have a representative please read *Information for Unrepresented Industry Members*:

<http://www.reca.ca/industry/content/publications-resources/guides.htm>.

## If You Object to a Panel Member

Please review who is on the Panel. If you object to any of the people being on the Panel, tell the Hearings Administrator **who** you object to and **why** within **14 days** of receiving this Notice.

If you do not object to the Hearing Panel within 14 days, this Hearing Panel will conduct the hearing.

## Postponing the Hearing

If you are not available on the date set for the hearing you can apply to the Panel for a new date. Contact the lawyer for the Executive Director and the Hearings Administrator as soon as possible if you need a new date.

Dated at Calgary, Alberta, on January 3, 2020.

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Charles Stevenson, Acting Executive Director  
of the Real Estate Council of Alberta

### Contact Information

Hearings Administrator: Email: <a href="mailto:hearngsadmin@reca.ca">hearngsadmin@reca.ca</a> Fax: 403 228 3065 Direct: 403 685 7913 Toll Free: 1 888 425 2754 Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta T3C 0M9	Lawyer for the Executive Director Email: <a href="mailto:conductadmin@reca.ca">conductadmin@reca.ca</a> Fax: 403 228 3065 Direct: 403 685 7944 Toll Free: 1 888 425 2754 Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta T3C 0M9
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