

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 004302.002  
Process: A Hearing under Part 3 of the *Real Estate Act*  
Industry Member: Cornelis Uittenbogerd  
Class of License: Real Estate Associate  
Registration: Currently registered with 1119498 Alberta  
Ltd. O/A  
Royal LePage Wildrose Real Estate  
Document: NOTICE OF HEARING

TO: Cornelis Uittenbogerd

A hearing is set to review allegations about your conduct. Read this entire document to see what you must do.

**Hearing Information**

Mode of Hearing: Joint submission. Written submissions only.

If the Hearing Panel wants to ask the parties questions, the following Date is

reserved: February 26, 2020

Time: 9:30 a.m.

Location: Via teleconference

Hearing Panel: Rita Aggarwala (Chair, Public Member)  
Gordon Reekie (Industry Member)  
Matthew Wiebe (Industry Member)  
(Alternates: Arlene Blake, Michael Brodrick,  
Junaid Malik)

Ricki Johnston (Independent Legal Counsel)

**It is alleged that your conduct is deserving of sanction for breaching sections of the *Act* or Rules. Here are the details:**

1. Mr. Uittenbogerd failed to fulfill his fiduciary duties of loyalty, confidentiality and of full disclosure of all conflicts of interest that arose between the sellers' interests, the listing associate, and his own, contrary to Rule 57(e) and 41(d):
  - a) Mr. Uittenbogerd and the listing associate were both real estate associates, registered with Linview Realty Inc. ("Linview.") Mr. Uittenbogerd did not explain to the sellers that this creates a conflict of interest.
  - b) Mr. Uittenbogerd did not explain to the sellers that he was their agent due to Linview being a common law brokerage. Mr. Uittenbogerd did not explain to the sellers that therefore he had a fiduciary duty towards them, and everything he knew in regards to the sale had to be disclosed to them.
  - c) Mr. Uittenbogerd did not provide to the sellers all of the information known to Linview in regards to this sale that could affect the sale price, in particular that the best use of the land was subdivision, and his own intention to subdivide the property after the sale.
  - d) Due to Linview's compensation structure, the listing associate was provided with more compensation by the sale than he would have received if the property was sold at list price to a buyer who was not represented by Linview. This conflict of interest was never explained to the sellers, other than in the Listing Agreement.
2. Mr. Uittenbogerd did not offer a transaction brokerage agreement to the sellers, contrary to Rule 59:

- a) As soon as Mr. Uittenbogerd knew that Linview was in an agency relationship with both the sellers and the buyer - i.e. as soon as his wife made a verbal purchase offer to the sellers - he was required under Rule 59 to offer a transaction brokerage agreement to the sellers.
  - b) This was not done.
3. Mr. Uittenbogerd made representations or carried on conduct that was reckless that misled the sellers contrary to Rule 42(a):
  - a) Mr. Uittenbogerd did not make the sellers aware that they were in an agency relationship with him, and carried on conduct behaving as if the sellers were not in agency with him.
  - b) This misled the sellers into believing they had limited right to disclosure of information from Mr. Uittenbogerd that was material to their interests and that Mr. Uittenbogerd owed them no fiduciary duty.
4. Mr. Uittenbogerd, while trading in real estate on his own behalf, did not disclose in writing that he was an industry member and the name of the brokerage with which he was registered, contrary to Rule 62(1)(b).

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

The hearing is your opportunity to respond to the allegations and state 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 You Should Bring to the Hearing**

Bring any witnesses and evidence you want the Panel to consider, with you to the hearing.

### **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 hearing all evidence and argument the Panel will decide whether the Executive Director has proven any of the breaches. If no breach is proven you will face no sanction.

If the Panel finds a breach is proven the Panel may do one or more of the things listed in **section 43** of the *Real Estate Act*:

- Cancel or suspend your authorization
- Order you to pay a fine for each breach
- Order you to pay the cost of the investigation and the hearing
- Order you to complete an education course

### **Submitting Written Arguments After the Hearing**

You can provide written arguments at the end of the hearing or after the end of the hearing

You must provide these to the **Hearings Administrator** and **Counsel for the Executive Director** (contact information below) **no later than 15 days after the end of the Hearing**.

Contact the Hearing Administrator if you need more time.

### **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, you must advise the Hearings Administrator **who you object to and why within 14 days** of receiving this Notice.

If you do not object to the Panel within 14 days, this 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 February 12, 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:hearingsadmin@reca.ca">hearingsadmin@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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