

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 010396.001
Name on Licence: Warren Constantine Phipps
Mountain Park Real Estate Ltd.
Licence Sector and Class: Formerly a Real Estate Broker
Formerly a Real Estate Brokerage
Process: Appeal of an Administrative Penalty
s.83.1 of the Real Estate Act

DOCUMENT: NOTICE OF HEARING

TO: Warren Constantine Phipps and Mountain Park Real Estate Ltd.

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

Hearing Information

Date: Monday July 19, and Tuesday July 20, 2021.
Time: 9:30 a.m.
Venue: Virtual Hearing
Hearing Panel: [A.B]; Chair, Panel member
[L.M]; Panel member
[S.P]; Panel member
[R.J]; Panel independent legal counsel
(Alternates: [K.O], [G.P], [B.R])

The Administrative Penalties issued to you are attached.

Please note that the AP for Warren Constantine Phipps has a typographical error on it. It is dated March 31, 2020; it was actually signed March 31, 2021.

Virtual Hearings

Hearings at RECA are conducted virtually. The Hearing Administrator will provide you with the Guide to Virtual Hearings and you will receive assistance to participate in the virtual process.

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

<https://www.reca.ca/complaints-discipline/hearings-information-procedures/>

- *Hearing and Appeal Practice and Procedures Guidelines and*
- *How to Represent Yourself at a Real Estate Council of Alberta Hearing or Appeal*
- *RECA Self-Represented Program*

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

If the Panel finds a breach has been proven the Panel may do one or more of the things listed in **section 83.1(5)** of the *Real Estate Act*:

- Quash, vary or confirm the administrative penalty
- Order you to pay the costs of the investigation and the hearing.

Making Oral and Written Arguments to the Hearing Panel

The Hearing Panel may accept oral and/or written arguments as part of the hearing. If the Hearing Panel accepts written arguments, it will set dates for the written arguments to be exchanged before accepting them.

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 here:

<https://www.reca.ca/complaints-discipline/hearings-information-procedures/>

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 Registrar and the Hearings Administrator as soon as possible if you need a new date.

Dated at Calgary, Alberta, on June 16, 2021.

“Signature”

Charles Stevenson, Registrar
of the Real Estate Council of Alberta

Contact Information:

<p>Hearings Administrator:</p> <p>Email: hearingsadmin@reca.ca 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</p>	<p>Counsel for the Registrar:</p> <p>Email: conductadmin@reca.ca 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</p>
---	--

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 010396
Name on Licence: Warren Constantine Phipps
Licence Type & Class: Formerly a Real Estate Broker
Brokerage Name on Licence: Formerly Mountain Park Real Estate Ltd.
Process: Section 39 and 83 of the *Real Estate Act*
Document: ADMINISTRATIVE PENALTY
Penalty: \$25,000

Payment

This Penalty must be paid **within 30 days** of the date this Notice was issued.

If you fail to pay the Penalty the Registrar may commence collection under Part 6 of the *Real Estate Act*.

If you pay the Penalty

- You will have satisfied the Administrative Penalty and no further proceedings under Part 6 will be taken against you.
- You cannot be charged under the *Real Estate Act* with an offence for the contravention(s) in this Administrative Penalty.

TO: Warren Constantine Phipps

The Registrar of the Real Estate Council of Alberta has determined there is sufficient evidence you contravened **section 17(a) of the version of the *Real Estate Act* that was applicable during the dates of your conduct** and this is conduct deserving of sanction.

17 No person shall (a) trade in real estate as a real estate broker... unless that person holds the appropriate authorization for that purpose issued by the Council.

Particulars of the contravention:

1. From approximately May 21, 2020 until approximately November 30, 2020, you traded in real estate as a real estate broker without holding appropriate authorization for that purpose issued by Council, contrary to s. 17(a) of the *Real Estate Act*:
 - a. Your licence was suspended by order of the Executive Director on June 26, 2020;
 - b. The authorization of your brokerage Mountain Park Real Estate Ltd. was cancelled by order of the Executive Director May 20, 2020;
 - c. Mountain Park Real Estate Ltd. is a corporation for which you are the sole shareholder, owner, and Director.
 - d. You continued to provide property management services to directly to property owners and tenants and via your participation in the operation of Mountain Park Real Estate Ltd.

The Registrar considered the following aggravating factors:

Aggravating Factors

- You unsuccessfully attempted to create a Rental Pool scheme that would allow you to provide property management services that are exempted from the *Real Estate Act*. The scheme was not actually exempted under the *Real Estate Act*. What the scheme actually did was deny owners and tenants the protections of the *Real Estate Act*.
- You engaged in this conduct despite being provided with an order by the Executive Director that suspended your licence and cancelled your brokerage's licence.
- You were formerly authorized for 13 years.
- You were engaged in providing property management in a large scale (60-70 properties) commercial operation without a licence at the same time you were holding yourself out as a property manager on LinkedIn.
- Your misconduct occurred over a protracted period of time towards owners and tenants.
- You have a prior discipline history which includes a recent failure to cooperate with a RECA investigation.
- You refused to answer investigators' question in regard to this investigation.

Appeal

You have the right to appeal this Administrative Penalty to a Hearing Panel. See **section 83.1 of the *Real Estate Act*** for what you must do to appeal.

In an appeal you will be given full opportunity consistent with procedural fairness and natural justice to present evidence before the Hearing Panel in relation to the contraventions alleged.

Your written notice of appeal must comply with section 83.1 and must be received by a delegate of the Registrar **within 30 days** of you receiving this Administrative Penalty.

If you appeal, payment of the Penalty will not be required until an order to pay a penalty is issued by the Hearing Panel. If you have any questions regarding particulars or the appeal process, please contact:

Name: [C.D], Legal Counsel
Phone: 403 685 7954; Toll Free: 1 888 425 2754
Fax: 403 228 3065
Address: Real Estate Council of Alberta
Suite 202, 1506 11 Avenue SW
Calgary, Alberta T3C 0M9

Issued at Calgary, Alberta, on March 31, 2020

“Signature”

Charles Stevenson, Registrar
of the Real Estate Council of Alberta