

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 010877
Process: Section 83 of the *Real Estate Act*
Person: Tony Dihn
Document: ADMINISTRATIVE PENALTY
Penalty: \$5,000

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: Tony Dihn

The Registrar of the Real Estate Council of Alberta (RECA) is of the opinion you have contravened **section 38(4)(a) of the *Real Estate Act***.

Section 38 – Investigation:

38(2) *A person conducting an investigation may*

by notice in writing demand that any person produce to the investigator

(a) *any books, documents, records and other things in that person's possession or under that person's control that are relevant to the investigation,*

(b) *demand that any person answer any questions that are relevant to the investigation,*

38(4) *A person who is required under subsection (2) to answer the questions of a person conducting an investigation*

(a) *shall co-operate with the investigator and promptly respond to the questions*

Particulars of the contravention(s):

1. Between June 2022 and July 2022, you failed to cooperate with an investigator contrary to section 38 of the *Real Estate Act*:
 - a) On June 7, 2022, via telephone, you discussed cooperating with the investigation. You requested to be contacted via email and provided an email address to use for communications.
 - b) On June 7, 2022, a demand for information relevant to an investigation under the *Real Estate Act* was sent to you via email. The deadline to respond to the demand was June 13, 2022. You failed to respond by the deadline.
 - c) On June 14, 2022, via telephone, you confirmed receipt of the demand letter and discussed the importance of cooperating with the investigation. You confirmed your email address.
 - d) On June 14, 2022, A second demand letter was emailed to you and a delivery confirmation was obtained. The deadline to respond was June 21, 2022. You failed to respond by the deadline.
 - e) On June 23, 2022, via telephone, you confirmed receipt of the demand letters. You failed to cooperate with the investigation.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors:

- You received a formal demand for interview which outlined your obligations under the legislation.
- There have been multiple instances where you failed to cooperate.

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 a 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 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: [A.B], Investigator
Email: [EMAIL]
Phone: 403.228.2954; 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 July 27, 2022.

“Signature”

Charles Stevenson, Registrar
Real Estate Council of Alberta