

THE REAL ESTATE COUNCIL OF ALBERTA

File No 015956  
Process Disposition by Registrar section 39 & 83 of the Real Estate Act  
Name Klaus Willi Witzke  
License Real Estate Associate Broker  
Industry Council Residential Real Estate Broker  
Conduct Brokerage Century 21 Foothills South Ltd. o/a Century 21 Foothills South Real Estate  
Current Brokerage Century 21 Foothills South Ltd. o/a Century 21 Foothills South Real Estate  
Document ADMINISTRATIVE PENALTY  
Penalty \$2,500  
Decision Date January 20, 2025

TO: Klaus Willi Witzke

The Registrar of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 42(a) of the *Real Estate Act Rules*** and this is conduct deserving of sanction.

Rule 42 – *Licensees must not:*

- (a) *make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so*

Particulars of the contravention(s):

1. In or around October 2023, you made representations that were reckless and misleading, contrary to section 42(a) of the *Real Estate Act Rules*:
  - a) In July 2023, you listed the Seller's property located at [ADDRESS] (Property) for sale.
  - b) At the time the listing was created, Poly-B piping was clearly visible in the basement as the ceiling was unfinished, and the Poly-B piping was about 10-15 feet long.

- c) In August 2023, the Property received an offer from a potential buyer. The deal ultimately collapsed, and the presence of Poly-B was noted.
- d) The Seller started repairing the Poly-B as soon as he became aware there was an issue with its presence.
- e) On October 7<sup>th</sup>, 2023, [BUYERS] (Buyers) submitted an offer to purchase the Property. [S.O], the Buyers' licensee, text messaged you and asked what the piping and wiring materials were and if there was any information pertaining to upgrades.
- f) On October 8<sup>th</sup>, 2023, the Seller accepted the Buyers' offer.
- g) On October 11<sup>th</sup>, 2023, you replied to [S.O] and stated that there had been "no recent piping or electrical upgrades." You did not elaborate on what upgrades had been or were to be completed on the Property. You acknowledged a more fulsome response to [S.O]'s inquiry may have avoided confusion because at the time the Seller was planning to do some piping and electrical upgrades.
- h) On October 12<sup>th</sup>, 2023, [S.O] text messaged you and asked if there was any Poly-B in the Property as the lender was asking. You stated there was "No Poly-B." At the time of this statement, Poly-B was still present in the Property. Your statement was inaccurate.
- i) On October 20<sup>th</sup>, 2023, a home inspection was completed, and Poly-B was identified in the Property.
- j) On October 23<sup>rd</sup>, 2023, the Buyers decided not to move forward with the transaction as their lender would not commit to financing with the presence of Poly-B.

The Registrar considered the following aggravating and mitigating factors:

### ***Aggravating Factors***

- The failure to accurately communicate the property features contributed to confusion and was not in the best interests of your client.

### ***Mitigating Factors***

- The Buyers had the protection of a property inspection condition which allowed the Buyers to make an informed decision about the property. This minimized the impact of your misrepresentation.

### **Appeal**

You have the right to appeal this Administrative Penalty to a Hearing Panel. Make sure to read the following important information if you intend to appeal

- **Section 83.1 of the *Real Estate Act***
- The attached Information Sheet and
- The *Hearing and Appeals Practice and Procedure Guidelines*

The Hearing and Appeals Practice and Procedure Guidelines are posted here:  
<https://www.reca.ca/wp-content/uploads/2018/07/Hearing-and-Appeal-Practice-and-Procedures.pdf>

Read the following sections of the Guidelines relating to specific appeals:

- Part 8 for Penalty appeals

**If you fail to take steps to initiate your appeal required by section 83.1, within 30 days of receiving this penalty you will lose your right to appeal.**

### **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 section 56 of the *Real Estate Act* and may suspend your licence under section 38.1 of the Rules.

### **On Payment of 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 section 81 of the *Real Estate Act* with an offence for the contravention(s) in this Administrative Penalty.

Dated January 20, 2025, at Calgary, Alberta.

**“Signature”**

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Warren Martinson, Registrar  
Real Estate Council of Alberta

cc. [K.L], Real Estate Broker  
Century 21 Foothills South Real Estate