

# ACCESS TO PROPERTY

**Purpose:** This bulletin sets out the responsibilities real estate professionals have when accessing property.

**This bulletin applies to real estate brokers, associate brokers, and associates.**

Real estate professionals frequently access property of which they are not the owner. Sometimes they access these properties on their own, and sometimes they have others with them – for example, when a real estate professional shows a property to a potential buyer.

In all cases, these professionals have a number of responsibilities to the property owner, whether they access the property alone or with others, and whether the property owner is present or not. The responsibilities remain the same.

## **No permission**

Unless expressly stated otherwise, for example in the private remarks section of the real estate board database, industry members must ask for and receive permission to access property before accessing it. The permission for access must come from the owner, which the owner typically communicates through their real estate representative. Every real estate professional seeking access to the property must have their own separate permission. For example, it is not acceptable for a real estate professional to book a long showing, and then offer portions of that time to other real estate professionals from their brokerage. Even in the case of a vacant property, industry members cannot access it without first receiving permission from the property's owner or another party with the authority to provide permission (for example, in the case of a Power of Attorney).

## **Other purpose**

Owners grant access to prospective buyers or tenants for a purpose; because they believe the buyer/tenant is genuinely interested in purchasing or renting the property. When an industry member seeks permission to access a property, unless they communicate something different, the seller and their representative expect a legitimate potential buyer or tenant will view the property. Real estate professionals have a requirement to be honest with their clients and with third-parties. That means that a buyer or tenant's real estate professional has to be honest with the seller and the seller's real estate professional.

One recent complaint involved a real estate professional who represented to a seller's representative that he was working with a buyer, but instead, he accessed a furnished vacant property to entertain friends. Another recent complaint involved a seller representative showing their seller clients a property similar to their own, with which they were competing in the same neighbourhood and at the same price point.

In both of these examples, the real estate professionals obtained permission from the seller for access under the guise of one purpose, but used the access for a different purpose.

Unless a buyer or the buyer's representative discloses it to the seller or the seller's representative beforehand, any other reason for a showing is dishonest through omission.

### **With additional people**

Sellers typically provide permission for a buyer's representative and that buyer/buyer's family to access a listed property. The family of buyers may be as few as one person, but sometimes will include as many as five or six. If a buyer's representative knows more people will attend, they should advise the seller representative to ensure the seller is fully informed of who is in their property, and is not surprised at the number of people in the event they return home early. There is no rule that limits how many people are allowed to attend a property showing, but if the buyer anticipates bringing many individuals along – whether family or not – advise the seller's representative.

### **With too many people**

This type of complaint often involves unanticipated people showing up to a property during a home inspection. In one recent complaint there was a young first time buyer couple and their infant son, both sets of parents, two siblings, one uncle, and a dog, as well as the buyer representative and home inspector. When the seller arrived home, the buyer representative and home inspector were in the basement, family members were spread throughout the house, and the dog was in the back yard. The buyer representative was in the care and control of the property, and could not properly supervise everyone. Real estate professionals should remind their clients they need to remain focused during a home inspection. This is not the time to introduce family to the new home. If unanticipated people show up, the buyer representative should contact the seller's agent, and ask for permission for additional people to access the property.

### **Broken items**

Accidents happen. When people are in unfamiliar surroundings and they're paying attention to features of the home rather than its contents,

occasionally, something gets broken. Most people take responsibility, pay for the broken item, and everybody is satisfied. Competent real estate professionals advise their seller clients to remove all valuables and breakables before the sign goes up to avoid broken or stolen articles. Buyer representatives should remind their clients that they are in another person's home or place of business, and they need to be mindful and careful around all personal belongings. It is very unusual to run into a situation in which a potential buyer would have to touch the seller's personal effects (for example, art work, figurines on a mantle) in order to adequately view and evaluate the home.

### **Taking photos**

RECA has seen an increase in the number of complaints about buyers taking interior photographs without the seller's permission. Seller representatives should discuss this with their clients in advance, and then they can advise real estate professionals who are bringing potential buyers whether taking photographs is acceptable. It is not okay for buyers to take photographs that may identify or include any personal information about the sellers. Discuss this with your buyer clients before taking them out to view properties.

### **Related information**

#### **Legislation**

- *Real Estate Act* Rules, sections 41(a)(b), 42(a)(g)