

GOOD CHARACTER – LICENSING

Purpose: This bulletin explains how the Real Estate Council of Alberta's (RECA) good character policy applies to applicants, including what good character is; conduct that may raise good character issues; the licensing review process and potential outcomes; and, factors the registrar considers in licensing decisions.

This bulletin applies to licensing applicants.

What is good character?

The requirement that licensees have good character is essential to the real estate industry as it:

- serves the public interest and protects consumers
- promotes high ethical standards and a professional mindset
- protects the reputation of the real estate industry
- promotes the integrity of the real estate industry
- enhances public confidence in the ability of the real estate industry to appropriately regulate itself and thus protects self-regulation

The *Real Estate Act* or Rules do not define good character. Case law defines good character as moral strength and includes integrity, candour, empathy, and honesty. The registrar evaluates the following when assessing an individual's good character:

Respect for the rule of law

Public confidence in the real estate industry requires licensees to respect and comply with the law. The registrar considers convictions under any law of any country when evaluating a person's respect for the rule of law.

Honesty

Licensees must conduct themselves honestly when in the care and control of money, property, and information. An honest person is truthful, trustworthy, and genuine. A dishonest person deceives or manipulates the truth by lying, misrepresenting the facts, or omitting material facts.

When dealing with RECA, an applicant must:

- answer questions about an incident truthfully and completely
- address requests for information in a timely manner
- disclose all relevant information

A person's history of conducting themselves dishonestly is relevant when the registrar is evaluating whether they are honest.

Governability

The registrar must ensure licensees are governable to serve public interest, protect consumers, and protect the reputation of the real estate industry. Applicants must:

- accept the responsibilities that come with being part of a self-governing profession
- respect the rules established by legislation and RECA as an essential part of the profession
- adhere to industry standards
- respond to RECA appropriately and in a timely manner
- take responsibility and be accountable for their actions

An individual's history of regulation in another profession or jurisdiction is relevant in assessing good character and reputation, and governability.

Financial responsibility

An applicant's lack of financial responsibility may demonstrate a lack of good character when they:

- intentionally avoid financial responsibility
- seek personal interest over financial obligations
- disregard contractual or legal obligations such as trust obligations

Financial concerns resulting from an economic downturn or negligent mismanagement of money or property does not necessarily demonstrate a lack of good character.

Professionalism

Professionalism is a standard of conduct based on ethics that govern the real estate industry. Professionalism means:

- fulfilling fiduciary obligations and acting in the best interest of clients
- providing competent business services to the public with integrity
- being knowledgeable in your area of practice, including legislative changes, and relevant legal or practice considerations
- acting ethically at all times
- being accountable for your actions and taking responsibility
- meeting obligations when dealing with personal or confidential information
- treating RECA, clients, licensees, and third parties with civility, respect, and professional courtesy
- putting the interests of your client and the profession above your own

What conduct may raise good character issues?

Applicants must truthfully answer suitability questions when applying for licensing and registration. These questions identify issues that may not reflect good character. The applicant must declare:

- discipline by a professional association; professional or occupational body, or any other regulatory body
- suspension, cancellation, or revocation of a licence, registration, or authorization by any regulatory body
- lifetime ban from a regulated industry
- fine, sanction, or discipline by any professional, occupational or trade association or any other regulatory body
- investigations or any kind of review by any professional, occupational or trade association or by any other regulatory body
- judgments or orders relating to misrepresentation, theft, fraud, breach of trust or fiduciary duties in the provision of products or services
- active civil proceedings when the defendant and the statement of claim alleges misrepresentation, theft, fraud, breach of trust or fiduciary duties in the provision of goods or services
- bankruptcy, insolvency, or receivership proceedings
- criminal investigations, charges, or criminal proceedings
- participation in the Alternative Measures Program
- convictions of any offence under any law of any jurisdiction (excluding provincial or municipal highway offences)

Declaring the above triggers a review of the incident and the applicant's good character. Additionally, any information the registrar becomes aware of in the application process may trigger a good character review.

Licensees must also answer a suitability questions when applying for their annual renewal. The questions are substantially the same as those they answer when first applying for licensing and registration.

What factors does the registrar consider when evaluating good character?

In order to decide an outcome, the registrar considers the circumstances of an incident, the length of time since the incident, the person's actions since the incident, and the person's insight into the incident. The registrar places significant weight on cooperation and honesty during the review process, and expects applicants to accept responsibility for their conduct and rehabilitate when appropriate.

Example Licensing Decisions: Licensing Refusals

A returning applicant demonstrated a lack of cooperation and respect for the rule of law by:

- previously participating in a mortgage fraud scheme
- refusing to provide information surrounding the mortgage fraud scheme
- refusing to cooperate in registrar's investigation of licensees involved in the mortgage fraud scheme

An applicant demonstrated a lack of honesty and governability while working as a real estate developer by:

- committing deceitful behaviour that significantly harmed members of the public
- demonstrating a lack of respect for court and legislative requirements
- providing false and misleading information during the application process

A reciprocity applicant from another province demonstrated a lack of financial responsibility and honesty by:

- intentionally withholding relevant information during the review
- intentionally using monies required to be treated as trust for their own financial benefit

An applicant demonstrated disrespect for the rule of law and a lack of honesty by:

- being involved in a criminal enterprise
- failing to disclose a serious criminal charge during the application process
- misrepresenting the events that gave rise to the charge and subsequent conviction

An Appeal Panel upheld RECA's decision to refuse registration.

Related information

Legislation

- *Real Estate Act* Rules, section 34

Information bulletins

- Good Character – Investigations

Other

- Licensing – Good Character Policy
- Investigations – Good Character Policy