

RESPONSIBILITIES AND PROHIBITIONS – REAL ESTATE BROKERAGE

Purpose: This bulletin explains real estate brokerage responsibilities and prohibitions.

This bulletin applies to all real estate professionals.

Brokerage Responsibilities

Trade in real estate only in the name on the brokerage's licence

Brokerages must trade in real estate only in the name that appears on their licence. The full brokerage name must always appear in full on all brokerage agreements and in any advertising. You must not alter the name in any manner unless it is a trade name approved by the Real Estate Council of Alberta (RECA) and appears on the brokerage's licence.

Ensure the brokerage's name is clearly indicated

Dealing in the name that appears on the brokerage licence and ensure you clearly indicate it is important for consumer protection. The name cannot be illegible or confusing. Consumers need to be able to identify the corporate entity they are dealing with.

Ensure disclosures are made to property management clients

If a real estate property management brokerage anticipates receiving any benefit for expenditures made by or on behalf of a client, they must disclose that benefit and the nature of the benefit to the client. This also applies to any industry professional registered with the brokerage.

Examples

1. The brokerage name on its licence is Main Street Realty Inc. The brokerage does not have a trade name approved by RECA. An associate's advertisement on behalf of the brokerage shows the brokerage name as Main Street Realty. This is a breach of the Rules.
2. A brokerage is associated with a franchise group and its brokerage name includes the name of the franchise. It is the only brokerage associated with that franchise in its trading area. An associate at the brokerage completes a residential offer on behalf of a buyer. The brokerage name on the offer is only the name of the franchise. The full name of the brokerage must be on the offer. If a problem arose, it could result in non-payment of commissions to the brokerage. The brokerage on the offer does not hold a licence to trade in real estate.

3. A brokerage offers property management services specializing in residential real estate. The brokerage arranges with outside service providers to maintain the properties on behalf of the owners. These service providers invoice the brokerage on a monthly basis identifying the property, cost and service for each unit. The brokerage allocates the expense for each property and owner. The brokerage charges the owner(s) an administration fee of 10% of the invoice. The property management agreement does not identify this fee. The brokerage is prohibited from collecting or attempting to collect this fee.
4. A property management brokerage that manages a number of residential units for an owner collects the money from the washing machines and dryer on a daily basis. The property management company keeps 10% of this money and reports the remaining balance as income to the owner on their monthly statement. The property management agreement does not identify nor authorize this activity. The brokerage cannot collect this fee.

Notify the executive director in writing

The Rules requires brokerages to notify the executive director immediately in writing:

- of any circumstance where the broker is no longer able to perform the duties of a broker
- on termination or resignation of the broker
- on opening or closing a trust account
- on a change in the brokerage's registered business office address
- on a change in the financial institution at which the brokerage maintains a trust account
- on a change in the partners of the brokerage if the brokerage is a partnership
- on a change in the officers, directors or shareholders of a corporation if the brokerage is a corporation

Brokerage prohibitions

A real estate brokerage must not:

- employ, permit, or engage a real estate professional to trade in real estate on behalf of the brokerage if that real estate professional holds a licence with another brokerage
- register a real estate professional if the individual does not meet the requirements for licensing or owe money to RECA

RECA will require a brokerage to terminate a real estate professional who is actively avoiding payment of a required fee, fine, or penalty.

Payment of commissions

Real estate brokerages must not pay commissions, directly or indirectly, to anyone other than:

- to a broker, associate broker, or associate employed by the brokerage
- to a corporation of which that broker, associate broker or associate owns not less than 50 per cent of the shares issued by that corporation
- to a brokerage licensed under the Rules or under similar legislation in a jurisdiction outside of Alberta
- to an auctioneer qualified under the *Consumer Protection Act*, where the trade is made in the course of and as part of that person's duties as an auctioneer

Fees and referrals

Real estate brokerages must not pay referral fees or other fees to an unlicensed person relating to a trade in real estate if that person's activities require a licence. This includes another licensed real estate brokerage when the brokerage knows an unlicensed person will receive the fees or part of the fees and the unlicensed person's activities require a licence

Related information

Legislation

- *Real Estate Act* Rules - sections 14(h), s.32, s.49, s.50, Part 3: Accounting, Records and Reporting Requirements

Guides

Advertising Guidelines

Information bulletins

- Advertising - Clearly Indicated
- Advertising – Licensed Name
- Referrals – Industry Member Requirements
- Teams in Real Estate Industry