

Real Estate Council of Ontario ~ Discipline Role



By Brian Madigan LL.B.

The Real Estate Council of Ontario (RECO) is charged with the administration of the *Real Estate and Business Brokers Act* (REBBA 2002). It supervises everyone in Ontario who trades in real estate as either a broker or as a sales representative.

There are some people who are exempt from the provisions of the Act, since their conduct is regulated under other legislation. An example would be solicitors who are governed by the Law Society of Upper Canada. So, when it comes to real estate trading, there are certain rules. These rules are set out in the Act and in the regulations published pursuant to the Act. The recent amendment to the Real Estate and Business Brokers Act in 2002 (not proclaimed in force until 2006) was the inclusion of a regulation that dealt specifically with ethics, namely the Code of Ethics. The passage of this piece of legislation has added and increased the degree of professionalism within the entire real estate industry.

The discipline decisions are published on the RECO website. However, in reviewing the cases, I will not mention any names, nor will I offer alternative explanations that might have been reviewed and rejected by the Discipline Panel. My objective is simply to review the decision made on the basis of the facts accepted as evidence with a view to offering some guidance in terms of future decisions that might be made by RECO.

So, if your case came before RECO, you will be pleased that I don't mention your name; on the other hand, you'll be disappointed that I don't offer your version of the facts, if they were not accepted by the Discipline Panel. Generally, if your case is under appeal, I won't be making mention of that fact until such time as a later decision were to either uphold or overturn the existing decision. My sole perspective is to interpret RECO decisions and offer guidance to the real estate industry and the public.

The Real Estate Council of Ontario maintains a website (RECO Website) at www.reco.on.ca which is available to the public. If you are a member of the public or a registrant and you wish to complain (or inquire) about the conduct of someone whose conduct is regulated by RECO, that is either brokers or sales representatives, then you may do so through this website, or by contacting RECO by telephone or in writing.

When you arrive at the RECO website you will find a button for “Complaints & Enforcement”, which if you click on it will produce a list of several items including:

- Registrar’s Proposals to revoke, refuse or suspend registrations
- Convictions
- Charges
- Discipline and Appeals decisions

These are the areas in which you can assess the performance of RECO in its role of protecting the public and monitoring the activities of brokers and sales representatives. The only category which sets out the reasons for the decisions is the Discipline and Appeals section. The others simply set out the actual result, without giving any real details. So, there’s not that much to be gained from reading them.

Accordingly, we’ll start with the Discipline and Appeals cases. It is important to note that under the Act, the first Discipline panel to hear the case will hold a hearing with all the various witnesses. Should the case be appealed, then it is heard by the Appeals Panel. This time, it is a paper review only. There are no witnesses. This Panel accepts the findings of fact made by the Discipline Panel and hears the arguments of the parties once again and makes a new decision.

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