



# **DISCIPLINE & APPEALS HEARINGS**

## **A Registrant's Guide**

## **LEGAL DISCLAIMER**

This guide is designed to provide an overview of RECO's discipline and appeals process. It is not intended to be a substitute for the Rules of Practice and nothing contained, expressed, or implied is intended as, or should be taken or understood as, legal advice. RECO is unable to provide legal advice or to refer individuals to a legal representative. The Referral Service of the Law Society of Ontario may be of assistance. For more information, please visit [www.lso.ca](http://www.lso.ca).

## **CODE OF ETHICS**

The Code of Ethics exists not just for consumer protection, but for the benefit of registrants as well.

It gives registrants who trade in real estate a clear set of guidelines to follow. The Code of Ethics generates public confidence in the real estate brokerage industry. Consumers are more likely to work with a registrant when they know the industry is regulated and registrants are held accountable for their competence, integrity and conduct.



# Complaint



If you are the subject of a complaint that has been referred to discipline, you will receive an allegation statement. The allegation statement will also be filed with the Discipline Committee. Your Broker of Record will be advised that the complaint has been referred to the Discipline Committee.

Your reputation and your career can be affected by a complaint that comes before a discipline hearing. It is important that you understand the hearing process.

## THE DISCIPLINE HEARING

A discipline hearing is a formal process. Discipline proceedings are scheduled in cases of serious matters of professional misconduct. RECO, as the prosecutor, is represented by a lawyer or paralegal. You have the choice of being represented by a lawyer, paralegal or an agent (in compliance with the requirements of the *Law Society Act*), or you may choose to represent yourself.

RECO will not pay for your representation, and adjournments will not be granted if you fail to obtain legal representation. Hearings are similar to any court of law proceeding. However, instead of arguing before a judge or Justice of the Peace, you will present your case to a discipline panel comprised of three-to-five members of a large Discipline Committee. The committee members, comprised of both registrants and members of the public, are experienced with the hearings process and procedures and have extensive knowledge of real estate best practices and the Code of Ethics.

Hearings are generally open to the public. However, in some cases the Discipline Panel overseeing the hearing may order that all or part of a hearing be closed to the public. Hearings are typically scheduled several months in advance.

## BEFORE YOU ARE CALLED TO APPEAR

You will be contacted in writing by RECO and given at least 45 days' notice before you are asked to appear. RECO will provide you with copies of any written or documentary evidence, the identity and anticipated evidence of any witnesses or experts, a copy of the expert's report, and an allegation statement containing a brief description of the allegations.

If you wish to provide written or documentary evidence or call any witnesses (including expert witnesses) you must disclose it to every other party and file it with the Hearings Coordinator at least 15 days prior to the start of the hearing (see Section 46 - O. Reg. 580/05). Failure to provide such evidence within the specified time frame may result in the evidence being ruled inadmissible by the Panel.

## PRE-HEARING CONFERENCE

Any party to a hearing may request a pre-hearing conference within ten days of being notified that the complaint has been referred to discipline. Once a pre-hearing conference has been requested, full participation is mandatory for all parties unless the Discipline Committee or Appeals Committee directs otherwise. All discussions at a pre-hearing are conducted on a without prejudice basis, meaning that nothing discussed at the pre-hearing will be disclosed at the hearing. The purpose of the pre-hearing conference is to determine whether any or all issues can be settled; whether the issues can be simplified; whether there are any agreed facts; and the advisability of attempting other forms of resolution of the matter. **All pre-hearings are closed to the public.**

## ON THE DAY OF THE HEARING

If you fail to attend the hearing, it may proceed without further notice to you and a decision may be made in your absence. Once the testimony of all witnesses has been heard, the hearing will conclude and the Discipline Panel will deliberate in private. If the Discipline Panel decides you have breached section(s) of the Code of Ethics, you may be ordered to take educational courses, pay a fine of up to \$50,000, and/or pay costs. The discipline decision and reasons for the decision will be sent to you, and a copy will be sent to your broker of record. **All hearings are open to the public unless a panel determines otherwise.**

## PARTICIPANTS IN A HEARING

**Discipline Panel:** A Discipline Panel is comprised of between three and five members of the larger Discipline Committee. Each Discipline Panel includes both public and registrant members of the Discipline Committee. The Discipline Panel listens to the evidence presented, including witness testimony, to impartially determine if a registrant has failed to comply with the Code of Ethics.

**Appeals Panel:** An Appeals Panel is comprised of between three and five members of the larger Appeals Committee. Each Appeals Panel includes both public and registrant members of the Appeals Committee. The Appeals Panel listens to appeals of discipline decisions. No evidence other than the record before the Discipline Panel is provided to the Appeals Panel.

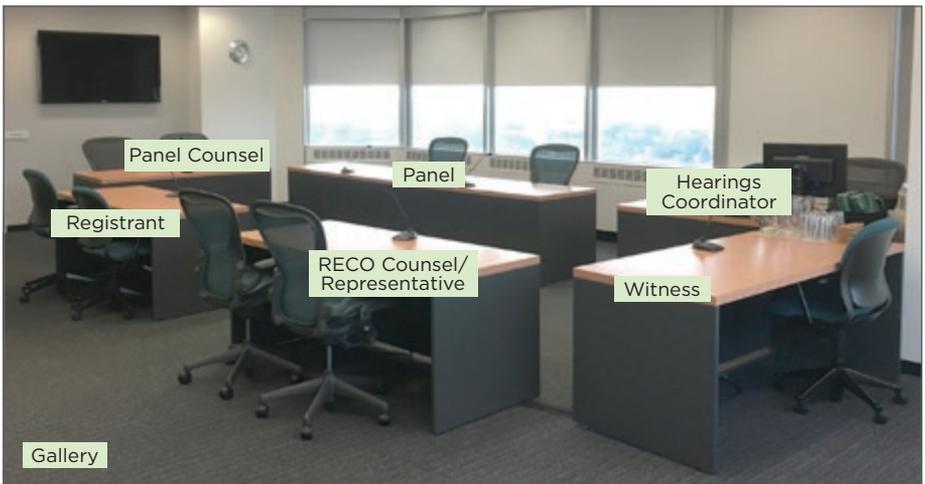
**Independent Panel Counsel:** The Discipline/Appeals Panel is provided with independent legal counsel. The counsel is there to provide the Discipline/Appeals Panel with neutral legal advice respecting procedural, evidentiary or legal matters and is independent of RECO and the Registrar.

**Counsel/Representative for RECO:** RECO will be represented by a lawyer or paralegal.

**Registrant (or Respondent):** The registrant is the salesperson, broker or brokerage who is attending the hearing to respond to a complaint filed against him or her.

**Counsel/Representative for the Registrant:** A registrant may be represented by a lawyer, paralegal or an agent (in compliance with the requirements of the Law Society Act) in a hearing. A registrant may also choose to represent him/herself.

**Hearings Coordinator:** The Hearings Coordinator attends hearings to monitor the recording equipment, record all exhibits and provide administrative support to the Discipline and Appeals Panel.



## RIGHT TO APPEAL

You have the right to appeal any decision or penalty imposed by the Discipline Panel, but you must do so within 30 days of the release of the decision, with reasons for your appeal. Once a decision has been reached and all appeals have been exhausted, RECO will publish the details of the decision, including any penalties, on its website (in compliance with Section 11(2) of REBBA). The decision will be published on RECO's website for 60 months. Only the names of the registrants found in violation will be published.

# Glossary

**The Act:** The *Real Estate and Business Brokers Act, 2002* (REBBA) and any successor legislation. REBBA is administered by the Real Estate Council of Ontario on behalf of the Ontario Ministry of Government and Consumer Services.

**Adjournment:** A putting off or postponing of proceedings by a Panel.

**Allegation Statement:** A statement of allegations containing a brief description of the transaction or conduct that is the subject of the discipline hearing. The allegation statement also includes the particular sections of the Code of Ethics, which are alleged to have been breached. The allegation statement is the Registrar's referral of the matter to the Discipline and Appeals Committees.

**Appeal:** An appeal occurs when a registrant asks that a decision about his or her case be considered by the Appeals Committee.

**Code of Ethics:** The Code of Ethics is set out in Ontario Regulation 580/05 of REBBA and is intended to protect the rights of consumers and promote professionalism within the real estate industry.

**Decision:** At the end of a hearing, the Discipline Panel releases a decision. It delivers the outcome of a hearing.

**Discipline Panel:** Three to five members of the larger Discipline Committee. The committee members, comprised of both registrants and members of the public, are experienced with the hearings process and procedures and have extensive knowledge of real estate best practices and the Code of Ethics.

**Disclosure:** All relevant documents (e.g., anticipated evidence and expert reports) to be used at the hearing are provided to each party in the proceedings and the Discipline Panel.

**Evidence:** All the documents, medical opinions and statements that are required to make a decision.

**Notice:** A notice is issued and served by the Hearings Coordinator, notifying the parties of a hearing before the Discipline Committee or Appeals Committee.

**Party:** A registrant who is the respondent in the proceedings and the Registrar (acting on behalf of RECO). If the context requires, "Party" may include a Motion Participant or a Non-Party Participant. (see Rule 1 - Rules of Practice - REBBA)

**Pre-hearing:** A pre-hearing is an opportunity for the parties to try to settle factual disputes, narrow issues and foster dialogue to reach a possible settlement. It can also be used to clarify the parties' responsibilities and duties, and provide enforcement mechanisms for the process.

**Proceeding:** Any step in the discipline or appeals process, including a request for direction, a motion, a pre-hearing conference and the hearing itself.

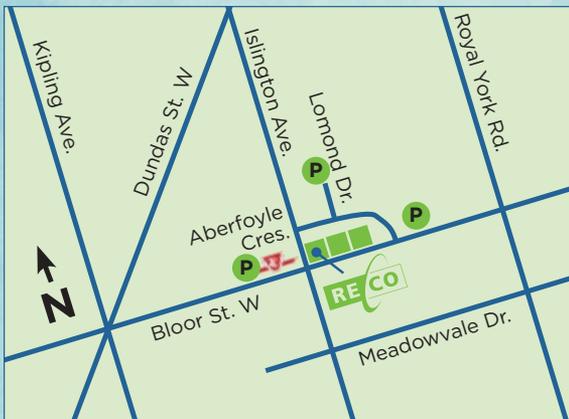
**Submissions:** Presenting arguments on law, a policy or facts about a case, either in person or in writing to a decision-maker.

**Transcript:** During a hearing, everything discussed in the room is recorded. If you wish, you can ask for a written copy of this recording, called a transcript. There is a fee associated with ordering a transcript.

For additional terms and definitions, please refer to the *Real Estate and Business Brokers Act, 2002 (REBBA)*, associated regulations and the Discipline and Appeals Committees Rules of Practice.

## GETTING TO RECO

Your hearing will be held at 3300 Bloor Street West, West Tower, Suite 1400 (14th floor), Toronto, ON M8X 2X2, which houses both RECO's corporate offices and the hearings room. RECO is located on the northeast corner of Bloor Street West and Islington Avenue.



Parking is available in the building and there are several parking lots within walking distance. Alternately, for those travelling by public transit, RECO is conveniently located at the Islington Subway Station on the Bloor-Danforth line.

# Contact RECO



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Suite 1400, West Tower  
Toronto, Ontario M8X 2X2



[info@reco.on.ca](mailto:info@reco.on.ca)  
[www.reco.on.ca](http://www.reco.on.ca)



**Telephone:** (416) 207-4800  
**Toll-free:** 1-800-245-6910  
**Fax:** (416) 207-4820



**Monday to Friday:**  
8:30 a.m. to 4:30 p.m.