



## **BUSINESS PRACTICES COMPLAINT PROCESS**

The Okanagan Mainline Real Estate Board is committed to encouraging and promoting a high level of professionalism among its Members. The Board recognizes that when someone takes the time to lodge a formal complaint, it is because they feel genuine dissatisfaction with the service they have received and/or believe that the REALTOR® has acted improperly in some way. The Board takes complaints very seriously and makes every effort to ensure that any complaint is thoroughly investigated and that all parties concerned have a full opportunity to be heard. The following offers an outline of the Board's procedures for dealing with complaints. We hope this outline will answer most of your questions in this regard.

### **What is required before the Board will accept your complaint?**

We only ask that any complaint be submitted to us in writing (e-mail is also acceptable) outlining the nature of the complaint in as much detail as possible. We would strongly suggest, however, that prior to submitting a complaint, you contact the manager (Nominee) of the real estate firm where the REALTOR® works to discuss your concerns. Issues can often be resolved with the assistance of the Nominee thus avoiding the need to go through the formal complaint process.

### **What happens if the matter is currently before the courts or the Real Estate Council of British Columbia?**

The Board's policy is not to investigate any complaint that is currently before the courts or the Real Estate Council. It is open to you to lodge a complaint with the Board either prior to initiating legal action or a complaint to the Real Estate Council or once legal or Real Estate Council proceedings have completed.

### **What jurisdiction does the Board have?**

The Board, through its Business Practices Committee, Hearing Panels and Appeal Panels has the authority to inquire into whether real estate licensees have breached the Standards of Business Practice, Code of Ethics, the Board's Regulations or its Bylaws. The Board does not have jurisdiction to make monetary awards or determinations on contract disputes. Such matters are within the jurisdiction of the civil courts.

The Board also does not have the authority to suspend or remove a REALTOR®'s license. The Real Estate Council of British Columbia is the licensing body of REALTORS®. To find out more about the Council's complaint process, you can call 1-877-683-9664 or visit their web site at [www.recbc.ca](http://www.recbc.ca).

## **What is the first thing that happens after I have lodged a complaint?**

The REALTOR® concerned will be asked to provide a written response to the allegations contained in your complaint within 10 days. The REALTOR®'s manager (the Nominee) will also be asked to provide any relevant comments. The responses from the REALTOR® and the REALTOR®'s Manager are reviewed by a business practices committee. This committee can take one of the following actions: Refer the matter to an Investigator of the Board; issue a letter of caution or warning to the REALTOR® and/or the REALTOR®'s Manager; determine that no further action is required and provide a response to you; or if the complaint is considered to be of a particularly serious nature, an immediate Hearing may be ordered or the matter referred to the Real Estate Council of British Columbia, the licensing body of REALTORS®.

## **What happens during an Investigation?**

The Investigator of the Board will delve into and clarify the issues in more detail by formally interviewing you, the REALTOR®, the REALTOR®'s Manager and any other witnesses that have relevant information. The Investigator compiles a report and makes recommendations to the Board's Director of Membership and Professional Standards. Based on the Investigator's recommendations, the Director of Membership and Professional Standards has the authority to: authorize the file to be closed and inform the parties; order further investigation into the matter; order a formal Hearing; issue a letter of caution or warning to the REALTOR® and/or the REALTOR®'s Manager.

## **Tell me more about the formal Hearing:**

A Hearing is a fresh examination of the complaint in a formal setting where the complainant, the REALTOR® and any witnesses give testimony under oath. A court reporter is present to record a transcript of the proceedings. The Hearing panel is comprised of three experienced Members of the Okanagan Mainline Real Estate Board, and a non-voting Chairperson who guides the proceedings. The Panel are provided in advance with background material on the complaint, but are not informed as to any of the findings of the Investigator. If you as the complainant are unable or uncomfortable attending the Hearing, you may submit your testimony via sworn affidavit. After hearing testimony from all the parties concerned and ensuring that everyone has had a full opportunity to be heard, the Hearing Panel adjourns to consider the matter. The Panel has two options:

- 1) It can make a finding of no wrongdoing on the part of the REALTOR®. In this instance, you and the REALTOR® would be duly informed and the matter would be considered closed.
- 2) It can find that the REALTOR® has breached one or more Articles of the Standards of Business Practice, or the Code of Ethics, or the Board's Bylaws/Regulations and can specify a penalty or penalties such as: maximum fine of \$5,000, requirement to take educational courses, or referral to the Real Estate Council.

**Note:** A REALTOR® may, at any time up to seven days prior to the commencement of a Hearing ordered, tender a conditional admission of a violation and consent to a specific disciplinary action. The Director of Membership and Professional Standards and the Past President of the Board may accept or reject the conditional admission and proposed disciplinary action.

### **If the Hearing Panel makes a finding of a breach, what happens next?**

The REALTOR® is duly informed and is given 10 working days to respond to the two options open to him/her:

- 1) Accept the finding and any penalty specified by the Hearing Panel. If the REALTOR® chooses this option, you would be duly informed and the matter would then be considered closed.
- 2) Reject the findings and request a review of the Hearing Panel proceedings by an Appeal Panel – although this option is available to the REALTOR® it is rarely exercised.

### **What is the Appeal Panel?**

The Appeal Panel is comprised of three experienced Members of the Okanagan Mainline Real Estate Board, one of whom must be a Past-President of the Board who would review the transcript of the Hearing Panel proceedings. The Appeal Panel would first determine after a review of the transcript if an Appeal Hearing will be held. If an Appeal Hearing is ordered, then new evidence may be allowed to be presented at the discretion of the Appeal Panel. The Appeal Panel may uphold the penalties imposed by the Professional Standards Hearing, reverse them, impose new penalties in their place, or order a new Hearing to be conducted within 60 days. You and the REALTOR® would be duly informed of their decision and the matter would be considered closed.

If you have any additional questions about our process or areas of jurisdiction, please do not hesitate to contact the Board:

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