

# Real Estate Council of Ontario

As part of our 2022 Annual Report, we performed a value-for-money audit of the **Real Estate Council of Ontario**, otherwise known as RECO.

Buying or selling a home is often the biggest financial decision people will make in their lifetimes. Consumers typically rely on real estate professionals to help them navigate the buying and selling process and provide them with expertise and support.

In 1997, the government of Ontario created RECO to administer and enforce the *Real Estate and Business Brokers Act, 2002* to regulate real estate brokerages, brokers and salespersons.

Our audit assessed how well RECO is performing in its mandate to protect consumers who buy properties in Ontario.

It also examined how well the Ministry of Public and Business Service Delivery is overseeing RECO and monitoring its performance.

Overall, we concluded that RECO has not been fully effective in administering the *Real Estate and Business Brokers Act*.

We found that there are a number of areas where consumer protection for buyers and sellers of real estate could be improved.

We also found the Ministry does not collect sufficient information to monitor and assess RECO's performance in meeting its mandate.

During our audit, we noted that RECO did not have a consistent process to assess applicants with criminal histories.

- In 20 of 25, or 80% of realtors we reviewed who self-disclosed a criminal charge or conviction, RECO did not have a documented rationale for why it did not pursue action to refuse or revoke registration.

RECO inspects real estate brokerages to assess their compliance with the Act. However, more than a quarter of brokerages have never had a full inspection, and more than a third have not had a full inspection in more than five years.

We also found that RECO does not have a policy that prevents a realtor from profiting on a transaction that violates its Code of Ethics. As well, fines for unethical transactions are often lower than a realtor's sales commission. In 67% of cases we reviewed, the fine issued by RECO when a realtor violated the Code of Ethics was lower than the commission earned in the related real estate transaction.

Although the buyer and seller of a property have conflicting interests, a single realtor in Ontario is permitted to represent both the buyer and the seller in a single real estate transaction, as long as the brokerage discloses and obtains written consent from the clients for the multiple representation. With limited exceptions, this practice has been banned in both British Columbia and Quebec.

In Ontario, there is no legislated cooling off period for the sale of new or resale properties, except for pre-construction or new condominiums. A cooling off period, is a period of time when a buyer can cancel a real estate transaction without risking the loss of their deposit.

In contrast, in 2022, the government of British Columbia introduced a mandatory three-day period to provide homebuyers time for due diligence procedures such as securing financing, and to reconsider their offer.

In terms of governance, at the time of our audit, only two of the 12 directors on RECO's Board were not registered members of the real estate industry.

RECO's Board is required to have an advisory process for direct input to the Board on issues that are important to consumers. However, we found that for most of RECO's existence, it has not had this process in place.

Our report contains 25 recommendations, including that RECO:

- develop a policy and guidelines to help staff determine whether to approve or refuse applicant registrations where there is a history of criminal offences;
- develop a risk-based inspection approach and put in place systems to ensure regular inspections of all brokerages; and
- develop and implement a formal fining framework that takes into consideration the remuneration earned by realtors.
- we also recommended that the Ministry explore opportunities and review recent changes in other Canadian jurisdictions to introduce homebuyer protections such as a cooling off period.

To read this report, you can visit our website at [www.auditor.on.ca](http://www.auditor.on.ca)