



Real Estate Council of Ontario

2022 Value-for-Money Audit

Why we did this audit

- In 1997, the government of Ontario created the Real Estate Council of Ontario (RECO) to administer and enforce the Real Estate Business Brokers Act, 2002 (Act) and to regulate real estate brokerages, brokers and salespersons.
- To assess whether RECO has effective and efficient processes to administer the Act to protect the public when engaging with a registered salesperson, broker or brokerage in real estate trades.

Why it matters

- In the last 10 years (2012–21), about 2.2 million residential resale homes have been sold in Ontario with a sales value of over \$1.2 trillion.
- Consumers typically rely on real estate professionals to help them navigate the buying and selling process, and provide them with expertise and support. Effective oversight of the real estate industry is critical to ensure that consumers are protected when engaging in what may be the most significant purchase of their lives.

What we found

No Consistent Process to Assess Applicants with Criminal Histories

- In 20 of 25, or 80% of the registered salespersons and brokers 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.

RECOMMENDATION 1

Many Brokerages Have Never Been Inspected

- In the absence of a policy to inspect each registered brokerage within a certain time frame, RECO has never conducted a full on-site inspection at 27% of registered brokerages, and has not conducted a full on-site inspection at a further 35% of brokerages in more than five years.
- RECO rarely follows up on violations found during inspections to confirm that brokerages have corrected them.

RECOMMENDATION 4, 7

Investigations Are Not Monitored for Timeliness or Effectiveness

- The proportion of investigations resulting in enforcement action differed significantly amongst RECO's five investigators, ranging from a low of 39% for one investigator to as high as 75% for another.
- The average number of days each investigator takes to complete an investigation also varied significantly, ranging from 26 to 331 days.

RECOMMENDATION 10

Fines Issued by RECO for Misconduct Are Often Lower than Commissions Earned by Registrants

- In 10 or 67% of 15 cases we reviewed, the fine issued by RECO's Discipline Committee when a salesperson or broker violated the Code of Ethics was lower than the commission earned in the related real estate transaction.

RECOMMENDATION 11

Salespersons/Brokers Permitted to Represent Both a Buyer and a Seller in a Single Transaction

- Although the buyer and seller of a property have conflicting interests, a single salesperson or broker 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 consent from the clients for the multiple representation. With limited exceptions, this practice has been banned in both British Columbia and Quebec.

RECOMMENDATION 13

Consumers Put Themselves at Risk When Making an Offer with No Conditions to Purchase a Property

- In Ontario, there is no legislated cooling off period (a period of time when a buyer can cancel a real estate transaction without risking the loss of their deposit) for new or resale properties except for pre-construction or new condominiums. In contrast, in 2022, the government of British Columbia introduced a mandatory three-day period to provide homebuyers time to conduct due diligence procedures such as confirming they have secured financing, and to reconsider their offer.

RECOMMENDATION 17

RECO Does Not Follow Up on Brokerages Holding Unclaimed Deposits

- Over the last five years (2017-21), RECO issued 599 non-compliance notices to brokerages for failing to remit unclaimed consumer deposits to RECO. RECO did not follow up and collect the unclaimed deposits.

RECOMMENDATION 18

Real Estate Sector Rarely Reports Large Cash Transactions to the Federal Agency that Monitors for Money Laundering

- The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) received zero reports from Ontario real estate brokers and salespersons of large cash transactions between the 2017/18 and 2020/21 fiscal years, and just 18 reports in 2021/22.
- RECO does not have a process to inspect whether registrants comply with reporting obligations to FINTRAC.

RECOMMENDATION 9

RECO's Board is Composed Mainly of Real Estate Industry Representatives

- 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 of importance to consumers. However, we found that for most of RECO's existence, it has not had a functioning process to do so.

RECOMMENDATION 23, 24

Ministry Does Not Collect Sufficient Information to Monitor and Assess RECO's Performance

- RECO has not established performance indicators for key areas of its operations, including areas where our audit identified significant operational issues such as whether all registered brokerages are inspected over a specific period of time.

RECOMMENDATION 2

Conclusions

- RECO has not been fully effective in administering the *Real Estate and Business Brokers Act, 2002* (Act) to protect the interests of consumers when engaging in a real estate transaction.
- There are a number of areas where consumer protection for buyers and sellers of real estate could be improved in comparison to another Canadian province, British Columbia.
- The Ministry's oversight processes to ensure that RECO effectively administers the Act and fulfills its mandate were not fully effective.