

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 012353
Name on Licence: Marilyn Ann Thiessen
Licence Type & Class: Real Estate Associate
Brokerage Name on Licence: Valley Realty Ltd. O/A Royal LePage Valley Realty
Process: Section 39 & 83 of the *Real Estate Act*

Document: ADMINISTRATIVE PENALTY
Penalty: \$1500 (see Schedule 2 of the Bylaws)

Payment

This Penalty must be paid **within 30 days** of the date this Notice was issued.

If you fail to pay the Penalty the Registrar may commence collection under Part 6 of the *Real Estate Act* and may suspend your licence under section 38.1 of the Rules.

If you pay the Penalty

- You will have satisfied the Administrative Penalty and no further proceedings under Part 6 will be taken against you.
- You cannot be charged under the *Real Estate Act* with an offence for the contravention(s) in this Administrative Penalty.

TO: Marilyn Ann Thiessen

The Registrar of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 41(b) of the *Real Estate Act Rules*** and this is conduct deserving of sanction.

Rule 41 – *Licensees must:*

(b) *provide competent service*

Particulars of the contravention(s):

1. In or around October 2021, you failed to provide competent service to your client contrary to section 41(b) of the *Real Estate Act Rules*:
 - a) Your clients were interested in a property. The property was advertised as "some of the extras are a "6 person hot tub with a gazebo...". Your

clients believed this meant the hot tub and gazebo were included in the purchase price.

- b) October 3, 2021, you drafted a Residential Purchase Contract for your Buyer clients for the property located at [ADDRESS].
- c) You discussed with the clients some of the chattels they wanted included in their offer. You failed to discuss the hot tub or gazebo at the time of writing the offer and seek the client's instructions if they wanted those items included in the offer. This was a failure to provide competent service.
- d) Your clients wanted the couch set included in the purchase. On the offer, you only wrote "couch" as part of the unattached goods. This did not capture the client's intentions of what they wanted. This was a failure to provide competent service.
- e) On possession day, the hot tub, gazebo, and full couch set were not at the property as the buyer expected.

A licensee must make sure what their client wants included in a purchase contract is included in the contract. A licensee must review the terms of any contract carefully with the client, including standard clauses, so there is no misunderstanding. The client's intentions must be clear. Words and phrases must be understood by the contracting parties to avoid any confusion. For more information, review RECA's Information Bulletin on Competent Service.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- The hot tub and gazebo were large, expensive items and were advertised as features of the property. These types of items must be reviewed with a buyer to seek their instructions when drafting an offer. Failing to do this negatively impacted the buyers financially.

Appeal

You have the right to appeal this Administrative Penalty to a Hearing Panel. See **section 83.1 of the *Real Estate Act*** for what you must do to appeal.

In an appeal you will be given a full opportunity consistent with procedural fairness and natural justice to present evidence before the Hearing Panel in relation to the contraventions alleged.

Your written notice of appeal must comply with section 83.1 and must be received by the Registrar **within 30 days** of you receiving this Administrative Penalty.

If you appeal, payment of the Penalty will not be required until an order to pay a penalty is issued by the Hearing Panel. If you have any questions regarding particulars or the appeal process, please contact:

Name: [C.S], Investigator
Email: [EMAIL]
Phone: 403.228.2954; Toll Free: 1.888.425.2754
Fax: 403.228.3065
Address: Real Estate Council of Alberta
Suite 202, 1506 11 Avenue SW
Calgary, Alberta, T3C 0M9

Issued at Calgary, Alberta, on April 29, 2022.

"Signature"

Charles Stevenson, Registrar
Real Estate Council of Alberta

cc [D.L], Real Estate Broker
Royal LePage Valley Realty