



## **Annual Report**

**March 31, 2023**

# Message to Minister

The Honourable Katrine Conroy  
Minister of Finance  
PO Box 9048  
Station Provincial Government  
Victoria, BC, V8W 9E2

On behalf of the Board of Directors of the Real Estate Compensation Fund Corporation (RECFC), I am pleased to present the Annual Report for the year ended March 31, 2023.

RECFC was formed under the *Real Estate Services Act* in 2004 to protect the public interest by providing compensation in certain cases of wrongdoing by real estate licensees. Since inception, RECFC has paid over \$1.8 million in compensation claims to consumers.

To provide enhanced protection for consumers, our increased coverage of \$200,000 for single claimants and \$1 million per brokerage contributes to the government's goal of increasing housing affordability by reducing risk of loss for consumers making home purchases.

This was our first full year operating under our new oversight body, the BC Financial Services Authority, and we are pleased to report that we are working collaboratively with BCFSFA to enhance consumer protection in the real estate sector.

This year, we increased our public directors to three of the five members of the board and have benefitted from new perspectives and oversight of the RECFC.

The RECFC fulfills an important role in providing consumer protection to the citizens of British Columbia. I am confident that with the ongoing support of the government and industry, the RECFC will continue to provide the public with the protection that it expects and deserves when dealing with real estate licensees.

Sincerely,



Jorda Maisey  
Chair

# Introduction

The Real Estate Compensation Fund Corporation (“RECFC”) and its operations are governed by the *Real Estate Services Act*.

In accordance with the legislation, RECFC established the Real Estate Special Compensation Fund (the “Fund”) for the purpose of providing compensation in accordance with Part 5 of the Act [Payments from Special Compensation Fund]. The Act provides for payments from the Fund to be made in one of the following three ways. In each case, a claim on the Fund is filed in writing with the Superintendent of Real Estate, who is appointed by the BC Financial Services Authority (“BCFSA”):

- (1) Civil Suit - a court finds that a claimant has suffered a “compensable loss,” as defined in the legislation. Any such finding is binding on the Superintendent of Real Estate, and the Superintendent is obliged to issue a Certificate of Compensable Loss, accordingly, in favour of the claimant. Upon receipt of such a Certificate, the RECFC is obliged to make the payment so certified from the Fund.
- (2) Discipline Hearing – The Superintendent determines after a discipline hearing that a licensee committed wrongful taking. Again, any such finding is binding on the Superintendent in relation to the determination of whether there has been compensable loss and, consequently, on the RECFC.
- (3) Compensation hearing - in the absence of a preceding Court or Discipline hearing decision, a member of the public alleging that they have sustained a compensable loss is able to apply directly to the Superintendent. In such cases, the Superintendent is entitled to conduct a hearing to determine whether a compensable loss has been incurred and issue a Certificate of Compensable Loss. On receipt of such a Certificate, the RECFC is bound to make the payment so certified.

It should be noted that the legislation grants the RECFC intervention rights regarding court and Discipline proceedings. These intervention rights are critical to allow the RECFC to become a party to the proceeding in order to adduce or challenge whatever evidence it believes appropriate and to make submissions to the court or Discipline hearing on what it believes the appropriate disposition of the proceeding ought to be. The RECFC is the only entity that has these intervention rights in the courts. The determination on whether a compensable loss has occurred and, if so, who is liable for it, either in whole or in part, still rests with either the Superintendent or the courts, rather than the RECFC.

The number of compensation cases arising in any given year is proving to be extremely low in comparison to the number of trust transactions conducted through real estate licensees in the province. Experience indicates that compensation claims often come in groups, often because a single licensee generates multiple claims. Given the enormous amount of trust funds held by the industry, the claims history demonstrates the high integrity of the industry as a whole.

In addition, pursuant to an amendment to the Regulation in 2007 allowing the RECFC to make an emergency payment in cases where the Superintendent determines that

- (a) A person has suffered a compensable loss,
- (b) Money is required to
  - (i) Complete a trade in real estate in which the person is involved, or
  - (ii) Prevent further significant compensable loss to the person,
- (c) It would be in the public interest to use money from the Fund to complete the trade or prevent the loss.

The RECFC came into effect December 31, 2004. Since inception, payments from the Fund have been made for compensable losses in 39 cases totaling approximately \$1.8 million

An important function of the RECFC is to pursue recovery rights against the wrongdoers who were responsible for the claims. Once a payment has been made from the Fund by one of the three mechanisms outlined above, the Act entitles the RECFC to seek recovery of the amount paid from whoever may be liable for the loss, either in whole or in part. The section expressly permits the RECFC to exercise whatever recovery rights the claimant had “as against any other person” in that regard. Most commonly, that recovery effort would be expected to take the form of the RECFC filing a civil suit against one or more of the parties the claimant could have sued. The RECFC has been able to successfully recover funds in several cases.

Given how highly variable real estate transactions and the parties involved in them are, determinations by the Directors of the RECFC on precisely how to exercise recovery rights, or how extensively to exercise them, can only be made on a case

by case basis, having regard to all the circumstances of the particular case and having regard to what is in the best interests of the RECFC and the Fund. Because Court proceedings, Discipline hearings, or hearings before the Superintendent may or may not provide a complete answer to the question of who all the potentially liable parties are, the Directors may consider it in order for the RECFC to conduct further investigations of its own before deciding what recovery steps to take, or which recovery efforts to abandon, in any given case.

Factors considered include the degree of apparent liability of a particular party given all the circumstances, the anticipated costs of recovery, and the amount to be recovered. In considering such matters, the RECFC takes appropriate legal advice. If a decision is made to not pursue the RECFC's recovery rights, then the file is closed.

In order to support the Real Estate Special Compensation Fund, the RECFC may

- (a) Levy assessments on licensees,
- (b) Levy different assessments against different classes of licensees as defined by the RECFC, and
- (c) Establish terms and conditions in relation to the payment of assessments.

Every licensee must pay to the RECFC, on or before the time set by the RECFC, any assessment levied by the RECFC. In order to limit the size of the Real Estate Special Compensation Fund to only the amount necessary to fund future compensation claims, the RECFC reduced its assessments in 2017 by assessing new licensees only. This year, the Board voted to cease assessments for the next two years. The legislation continues to provide that if a licensee has not paid an assessment as required, the licensee's license is suspended until the licensee pays the full amount due, together with interest on that amount at a rate determined by the RECFC.

The RECFC invests the money in the Real Estate Special Compensation Fund that is not immediately required for disposition, as permitted under the provisions of the Trustee Act respecting the investment of trust property by a trustee, with the primary purpose of protecting the capital in the Fund for future compensation claims.

The RECFC has been fortunate in receiving strong support from the real estate sector. Through the payment of their annual assessments, real estate licensees have contributed over \$19 million to the compensation fund. We are grateful for the initial grants made by the real estate regulator totaling \$1,000,000 and \$600,000 by the Real Estate Foundation of BC.

## 2023 Board of Directors

The Board of Directors governing the Real Estate Compensation Fund Corporation consists of three directors appointed by the BCFSA and two directors appointed by the British Columbia Real Estate Association. Directors may serve two consecutive three-year terms. The Corporation is administered by a part-time Executive Officer.

### **Jorda Maisey, Chair, Langley**

Jorda Maisey is a past president of the Fraser Valley Real Estate Board. She was appointed by the BC Real Estate Association and has been licensed for over 20 years. Jorda is currently with RE/MAX LifeStyles Realty in Langley.

### **Lori Mullin, CPA, Vice Chair, Kelowna**

Lori Mullin, CPA, CA, CFP operates her own professional accounting public practice in Kelowna where she serves a wide variety of businesses and not for profit entities including small businesses, real estate companies and government agencies. In addition to her practice, Lori conducts professional misconduct investigations on behalf of CPABC and is the former Finance Committee Chair of the Kelowna General Hospital Foundation.

### **David Weiss, Director, Vancouver**

David Weiss is Senior Vice President of Corporate Service & Transformation at BCFSA. He has been involved in setting strategy, driving business growth, building teams, and leading transformational change in organizations for over 25 years. He has volunteered with a variety of non-profit organizations in his community throughout his career.

### **James Palanio, Director, Penticton**

James Palanio has been licensed since 2002, and is now the Managing Broker of Royal LePage Locations West realty in Penticton, BC. James has served on the South Okanagan Real Estate board for 7 years, and then on the British Columbia Real Estate Association board, including a year as chair. He has also served his community on local non-profit boards over the past two decades, and is an elected school trustee, and the current chair of the Okanagan-Skaha, School District 67 Board of Trustees.

### **Erin Seeley, Director, Vancouver**

Erin Seely is the CEO of the YWCA of Metro Vancouver. She previously served as Senior Vice President at BCFSA and CEO of the Real Estate Council of BC, and spent more than 10 years in progressively senior leadership roles with the BC Government. Erin holds a BA in Political Science and Hispanic Studies from the University of Victoria and an MA in International Studies from Simon Fraser University.

## Wendy Royle, Executive Officer

Wendy Royle, CPA, CA, is the Executive Officer of the RECFC. She is a Chartered Professional Accountant and is an instructor for CPABC's continuing professional development program where she teaches ethics courses to CPAs. She has served as the Chief Examiner at the BC Securities Commission and the Vice President Pacific of the Mutual Fund Dealers Association.

## Claims Activity During 2023

In the current year, RECFC paid out \$8,376 in claims. Last year, RECFC paid out \$2,500 claims.

\$912 in claims paid out in prior years was recovered in the current year pursuant to the RECFC's recovery rights (\$14,000 in 2022).

Through careful investment management, the RECFC has been successful in protecting the Real Estate Special Compensation Fund and building a proper financial reserve for the payment of future compensation claims.

## Financial Summary 2023

During 2023, RECFC collected \$1.069 million in assessments (2022: \$1.113 million) and incurred operating expenditures of \$290,000 (2022: \$260,000). The Real Estate Special Compensation Fund was valued at \$23.7 million at year end.

Please refer to the audited financial statements on our website for detailed financial information.

## Contact Us



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