

Protection of property

This bulletin explains real estate agents' obligations when accessing or facilitating access to property.

Summary

Access to a property is authorized by the seller's brokerage, only with the seller's consent. The seller's consent for access to their property is granted for a specific purpose, with specific people present, at a specific time, and for a specific duration. Other restrictions on access may apply.

It is expected that the seller's agent will be present each time access is granted unless the seller has expressly authorized otherwise. The buyer's agent is expected to be present and to continuously supervise the people granted access.

Whether you are representing the seller or a buyer, you must exercise care, both in granting access and when granted access to a property.

UNAUTHORIZED ACCESS

Unauthorized access, including access outside of scheduled appointment times or access for purposes other than what was agreed to by the seller, is unacceptable, because of the potential risk to real and personal property, privacy, and the safety and security of both buyers and sellers.

UNACCOMPANIED ACCESS

Unaccompanied access is prohibited unless the seller provides express written consent. The agent representing the seller should clearly explain the risks involved and discuss alternatives with the seller before the seller consents.

Agents must not provide a lockbox code to anyone, including a buyer, appraiser, home inspector, or other service provider, without the express written consent of the seller.

References to the seller's brokerage or the seller's agent in this bulletin, may include a self-represented seller where applicable.

Access to property

Access to a property is authorized by the seller's brokerage, only with the seller's consent. The seller's consent is granted for a specific purpose, with specific people present, at a specific time, and for a specific duration. Other restrictions on access may apply.

An agent must receive consent from the seller's brokerage **before** each visit to a property. This includes visits to properties accessible by keys in a lockbox.

RECO Bulletins are a series of publications developed to provide helpful information to brokerages and real estate agents about their duties and obligations under the *Trust in Real Estate Services Act, 2002* (TRESA) and its regulations. Bulletins may be updated as required. Please check the RECO website to ensure you are referencing the most current version.

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All appointments, whether for agent previews, consumer showings, home inspections, or access by other service providers, must be made and confirmed through the seller's brokerage before entering the property.

UNACCOMPANIED ACCESS

An agent **must not** provide any person access to real estate unless:

- An agent is present with the person, or
- The seller has consented in writing to the person having access without an agent being present.

It is expected that the seller's agent will be present each time access is granted unless the seller has expressly authorized otherwise. The buyer's agent is expected to be present and to continuously supervise the people granted access.

In the event there is a legitimate reason to provide access without an agent present, the agent involved must seek written consent of the seller, authorizing the agent to provide the person with unaccompanied access to the property. For example, a seller might provide consent for unaccompanied access if the property is vacant land, or if the home is vacant and an appraiser needs a brief walkthrough during a financing condition period.

If you are representing a seller, you should clearly explain the risks involved in granting unaccompanied access and discuss alternatives with the seller before they consent.

The written consent must clearly identify who is being granted unaccompanied access, the date and time they are accessing the property, the purpose of accessing the property, and the duration of time they can access the property.

RESTRICTIONS RELATED TO ACCESS

Access to a property is granted for a specific purpose, like showing a property to a potential buyer, and is limited to that purpose only. Use of the property beyond the specific purpose is not permitted.

Taking photographs of the property or making video recordings is not permitted unless expressly authorized by the seller.

Any additional access restrictions must be communicated by the seller's brokerage to the agent seeking access to the property. A buyer's agent communicating directly with a self-represented is expected to ask the seller if there are any restrictions related to access. Agents facilitating access must ensure anyone accessing the property complies with the restrictions.

For example, a restriction might provide for:

- A limit on the number of people who enter the property,
- Restricted access to parts of the property, or
- A requirement that shoes be removed, or that hands are sanitized upon entry.

If you are representing the seller, you are responsible for ensuring that any restrictions are communicated by your brokerage when an appointment is confirmed.

If you are representing a buyer and a restriction is unclear or a change to the restriction needs to be negotiated, you need to discuss this with the seller's agent and obtain confirmation before accessing the property.

ACCESS TO RENTAL PROPERTIES

Access to rental properties or units requires that the property owner, or landlord, provide notice to the tenant(s) in accordance with the law. If the tenant was not properly notified in advance, the tenant may grant permission if asked, but has a right to refuse access. Agents must not pressure tenants to provide access nor allow others to do so.

ACCESS IS FOR A SPECIFIC TIME AND DURATION

Access to property is granted for a specific time and duration. If you are representing a buyer and receive written communication from the seller's brokerage that confirms an appointment, you must only enter the property during the time specified in the appointment confirmation. There may be another appointment following yours or the seller may need access to the property after that time.

If you are showing a property to buyer clients, it's important to make them aware that they have a set amount of time to view the property and must leave at the end of the scheduled appointment.

If you or your client anticipate being late for an appointment or cannot make the appointment, you should let the seller's brokerage know as soon as possible. The seller's brokerage can cancel or reschedule the appointment. Alternatively, if the buyer is able to make the appointment but you cannot, you might ask the seller's brokerage if one of their agents is able to attend the appointment or attend until you are able to arrive.

CARE OF THE PROPERTY

Agents must ensure close supervision during access. If you are the agent who is showing the property, you must remain in attendance for the duration of the appointment and must not leave other people unsupervised on or in the property.

Agents accompanying their clients into a building should remind all visitors that they are entering someone else's home or place of business and to act accordingly. Unless expressly permitted, furniture, appliances, and personal items should not be touched or disturbed during access. Bathrooms should not be used. Agents should also prevent buyer clients from bringing food or drinks into a home or other building.

Protecting a property includes properly securing it after access. Agents must ensure that any doors or windows that might have been opened during the viewing are closed and locked, and the key is returned to and secured in the lockbox at the end of the appointment.

An agent must not give the key to another agent who may be following them into the property. If the other agent is authorized, they will already have the lockbox code.

UNDERSTAND YOUR OBLIGATIONS

Unauthorized access, including access outside of scheduled appointment times, is unacceptable, because of the potential risk to real and personal property, privacy, safety and security of both buyers and sellers.

If an agent accesses a property without the seller's consent or allows someone else to access a property unaccompanied without the seller's consent, the agent should expect to be prosecuted.

Most of the complaints about access RECO receives involve inappropriately providing access to keys in a lockbox. Under no circumstances should an agent communicate or provide a lockbox code to anyone, including a buyer, without the express written consent of the seller.

Although RECO takes a progressive approach to discipline, agents will face serious sanctions for access to property, lockbox, and other infractions that demonstrate a disregard for the protection of property.

Access other than as expressly authorized by the seller might also be treated as trespassing and could give rise to prosecution of those who trespassed. Brokerages, agents, and clients also risk civil liability for damages to the property or the contents of the property resulting from unsupervised access or failing to secure a property after access.

Related information

Bulletin No. 3.1 Disclosures, consents, and acknowledgements

Bulletin No. 7.2 Lockboxes