

Lockboxes

This bulletin explains real estate agents' obligations related to the installation and use of lockboxes.

Summary

The use of lockboxes requires mutual trust between agents and sellers and that trust must never be compromised.

Lockboxes are to be installed only with the seller's written consent. Agents must fully explain the risks to the seller before a lockbox may be installed, regardless of whether the property is occupied, unattended or vacant. If the seller understands and is prepared to accept the risks, they can make an informed decision about authorizing the use of a lockbox.

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. Unauthorized access, including access outside of appointment times, is prohibited.

Lockboxes

Lockboxes are a convenience for the seller's agent. However, the seller is not required to consent to the use of a lockbox. The seller can require that either the seller or the seller's agent are present for all appointments to view the property.

Agents are reminded of their legal obligations to promote the best interests of their clients and to provide conscientious and competent service to the sellers and buyers that they work with.

Agents are also encouraged to take advantage of the latest technology in electronic lockboxes. Advanced technology allows for the identification of the parties who access the property, the time and duration of the visit, and automatic code changes.

For example, it is a leading practice for agents to routinely change their lockbox codes. The US-based *National Association of REALTORS®* requires that "temporary codes/access must expire within seventy-two (72) hours after being issued" when its members are sharing lockbox codes with buyer's representatives from another brokerage. This is a reasonable minimum standard for Ontario's agents to follow.

Brokerages are expected to have clear lockbox policies in place that reflect the interests of both the seller and the buyer and comply with rules established by their local board or association. The following sections outline some key responsibilities of the seller's brokerage and the buyer's brokerage that should be captured in the policies.

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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REPRESENTING A SELLER CLIENT

Lockboxes are to be installed only with the seller's written consent. Agents must fully explain the risks to the seller before a lockbox may be installed, regardless of whether the property is occupied, unattended or vacant. If the seller understands and is prepared to accept the risks, they can make an informed decision about authorizing the use of a lockbox.

At a minimum, the explanation of risks should include the possibility that:

- Keys may be lost, the lockbox may be improperly closed, the lockbox might be broken into, or the code might be shared with an unauthorized person.
- Unauthorized access could result in theft or damage to the property.

The seller's agent should document the seller's authorization in a written direction to the seller's brokerage. The written direction should be signed by the seller, and the seller should be provided with a copy before a lockbox is installed.

The seller's agent should explain the type of lockbox that will be used, how frequently the code to the lockbox will be changed, and where it will be placed. Lockboxes should be located in a safe, well-lit, secure, and accessible place.

In addition, the seller's agent should encourage the seller to contact their property insurer before agreeing to the installation of a lockbox, as the use of a lockbox may impact the seller's property insurance coverage.

The seller's agent should discuss with the seller, any special restrictions related to access. All restrictions must be clearly communicated every time access is granted. For example, the seller may instruct that persons accessing the property are not permitted to take photographs.

LOCKBOXES WHEN REPRESENTING A BUYER CLIENT

If an agent has received written communication from the seller's brokerage that confirms an appointment to view a property with a lockbox:

- The agent must not communicate or provide the lockbox code to anyone, including a buyer client, without the express written consent of the seller.
- The agent must ensure that the property is secured and return and secure the key in the lockbox at the end of the appointment.
- The 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

RECO regularly receives complaints from consumers and agents involving inappropriately providing access to keys secured in a lockbox.

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.

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

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

Related information

Bulletin No. 3.1 Disclosures, consents, and acknowledgements

Bulletin No. 7.1 Protection of property