

**Peterborough and the Kawarthas
Association of REALTORS Inc.**

PRIVACY CODE

PETERBOROUGH AND THE KAWARTHAS ASSOCIATION OF REALTORS INC. PRIVACY CODE

1. The Privacy Code of the Peterborough and the Kawarthas Association of REALTORS Inc.

This association is a member of The Canadian Real Estate Association (CREA) and adheres to and abides by the principles set out in the CREA Privacy Code. All employees and sales representatives associated with this association must sign an acknowledgement that they will comply with the requirements of the Code.

2. The Policy Statement

The Peterborough and the Kawarthas Association of REALTORS Inc. only collects personal information:

- (a) About member REALTORS necessary to process membership, collect dues, operate the MLS® system, enforce its By-laws and generally effectively administer the association;
- (b) About buyers, sellers and properties provided by member REALTORS in the course of the operation of an MLS® system.

3. The Person In Charge

The Executive Officer is the position responsible for privacy compliance in this association. Her name shall be made available to consumers. The responsibilities of the privacy compliance officer shall include:

- (a) establish and update information protection policies;
- (b) ensure policies are implemented by other boards to which data-processing functions are outsourced;
- (c) establish criteria for classification of information;
- (d) evaluate the accessibility of sensitive information and take corrective action where necessary;
- (e) provide education to employees on the importance of information protection;
- (f) attempt to resolve consumer and member privacy complaints to the satisfaction of the individual.

4. The Collection, Use and Disclosure of Personal Information

- (a) No personal information shall be collected from an individual without first obtaining the consent of the individual to the collection, use and dissemination of that information;
- (b) Express consent (whether oral or written) must always be obtained except in the following situation. Consent may be implied where the information is not sensitive and where it can be reasonably assumed that the individual would expect the information to be disclosed in this fashion;
- (c) Once information is collected, it will be used and disclosed only for the purposes disclosed to the individual;
- (d) Standard form listing agreements and/or buyer agency agreements prepared by the association for use by members shall contain the clauses approved by the directors by which the seller/buyer authorizes the collection, use and disclosure of personal information.

5. Disclosure for New Purpose

- (a) Anyone using personal information for some new purpose that extends beyond the consent already provided must obtain the express consent of the person for that use;
- (b) Requests for information by law enforcement officials, lawyers, private investigators or other agents or subpoenas for documents issued by the court must be referred to the executive officer.

6. Protecting Information

Information must be protected in a manner commensurate with its sensitivity, value and criticality. This policy applies regardless of the media on which information is stored, the locations where the information is stored, the systems used to process the information, or the processes by which information is handled.

(a) Collection and Disclosure

- (i) Meetings with REALTORS or members of the public must take place in a place and manner to ensure confidentiality;
- (ii) Mail and faxes must be routed directly to the intended recipient;
- (iii) Information should be available to other persons in the association only on a need-to-know basis.

(b) Storage

- (i) Filing cabinets designated by the association manager to contain personal, including sensitive, information are to be kept secured at all times;

- (ii) All personnel have computer passwords. These passwords are confidential and are not to be shared with any unauthorized persons.

(c) Destruction

- (i) This association has in place a record retention and destruction policy. Refer to that portion of the policy manual for details.

7. Accuracy of and Access to Personal Information

To ensure the quality of the information collected:

- (a) Insofar as possible, personal information should be collected directly from the REALTOR;
- (b) Listing information should be collected directly from the listing broker/salesperson; public property information (taxes, assessment data etc.) collected directly by a real estate board from a public source should be verified with that source. Public property information provided by a REALTOR should be verified by the REALTOR;
- (c) Disclaimers of accuracy should always be attached to any disclosure of information and on all MLS® data.

8. Access to Personal Information

- (a) Copies of any privacy brochure approved by this association should always be available to the public in the reception area of the association;
- (b) The individual set out in Section 3 as being responsible for privacy compliance is the person responsible for responding to access requests and all such requests will be referred to her. All staff persons will co-operate fully with the privacy compliance officer in responding to requests;
- (c) On written request and appropriate identification satisfactory to the association, an individual will be advised of personal information about him/her retained in the association's records;
- (d) Where information cannot be disclosed (for example the information contains reference to other individuals or is subject to solicitor-client privilege) the individual will be given reasons for non-disclosure;
- (e) An individual may have appended to a record any alternative information where the office is of the view that the appended information is, in fact, correct;
- (f) A minimum administrative fee may be charged to supply the information.

9. Compliance

- (a) Failure to comply with the Privacy Code constitutes a breach of CREA's Code of Ethics and Standards of Business Practice;
- (b) Any complaints from an individual concerning the collection, use or disclosure of their personal information or concerning the individual's ability to access their personal information must be referred to the privacy compliance officer, who will attempt to resolve the complaint to the individual's satisfaction;
- (c) In the event the complaint cannot be resolved internally to the individual's satisfaction, he or she will be advised of where to direct the complaint.

SUMMARY OF PRIVACY PRINCIPLES

PRINCIPLE 1 ACCOUNTABILITY

Members are responsible for the proper management of all personal information under their control, and shall designate one or more persons to be accountable for compliance.

PRINCIPLE 2 IDENTIFYING THE PURPOSES OF PERSONAL INFORMATION

Members shall identify the purposes of collecting information before or at the time the information is collected.

PRINCIPLE 3 OBTAINING CONSENT

The knowledge and consent of the consumer are required for the collection, use or disclosure of personal information except where inappropriate.

PRINCIPLE 4 LIMITING COLLECTION OF PERSONAL INFORMATION

Members shall limit the collection of personal information to that which is necessary for the purposes identified.

PRINCIPLE 5 LIMITING USE, DISCLOSURE AND RETENTION OF PERSONAL INFORMATION

Members shall use or disclose personal information only for the reason it was collected, except with the consent of the consumer or as required by law.

PRINCIPLE 6 ACCURACY OF PERSONAL INFORMATION

Members shall keep personal information as accurate, complete, current and relevant as necessary for its identified purpose.

PRINCIPLE 7 PROTECTING INFORMATION

Members shall protect personal information with safeguards appropriate to the sensitivity of the information.

PRINCIPLE 8 OPENNESS CONCERNING POLICIES AND PRACTICES

Members shall make readily available to consumers specific information about their policies and practices relating to the management of personal information.

PRINCIPLE 9 CONSUMER ACCESS TO PERSONAL INFORMATION

Upon request, members shall inform a consumer of the existence, use and disclosure of his or her personal information and shall give the individual access to that information.

PRINCIPLE 10 CHALLENGING COMPLIANCE

A consumer shall be able to address a challenge concerning compliance with the above principles to the designated accountable personal or persons in the member office.

DEFINITIONS

Collection:	The act of gathering, acquiring, recording, or obtaining personal information from any source, including third parties, by any means
Consent:	Voluntary agreement with the collection, use and disclosure of personal information for defined purposes. Consent can be either express or implied and can be provided directly by the individual or by an authorized representative. Express consent can be given orally, electronically or in writing. Implied consent is consent that can reasonable be inferred from an individual's action or inaction.
Consumer:	Any individual or company who consults with or retains in any way the services of a REALTOR, a brokerage or a real estate board or association. A consumer includes both customers and clients.
Disclosure:	Making personal information available outside the member organization.
Member:	Includes Provincial/Territorial association, real estate boards, real estate brokerage firms, brokers and salespersons as the context requires.
Personal Information:	Means in about an identifiable individual but does not include: <ol style="list-style-type: none">1. the name, title or business address or telephone number of an employee of an organization;2. aggregated information that cannot be associated with a specific individual.
Reasonable:	The standard of conduct which would be expected by a reasonable consumer of Real estate services in all of the circumstances.
Third Party:	An individual or organization other than the member itself.
Use:	The management of personal information by and within the member organization.

RECORD RETENTION AND DESTRUCTION POLICY

RETENTION OF RECORDS:

THE RECORDS OF THE ASSOCIATION SHALL BE RETAINED FOR THE BENEFIT OF ITS MEMBERS AND OTHER LEGALLY PERMITTED TO INSPECT THE SAID RECORDS IN A MANNER AND IN A PLACE REASONABLY ACCESSIBLE.

INSPECTION OF RECORDS:

THE RECORDS SHALL BE AVAILABLE FOR REFERENCE BY MEMBERS AND OTHERS LEGALLY PERMITTED TO INSPECT THE SAID RECORDS DURING REGULAR OFFICE HOURS OF THE ASSOCIATION, UNDER SUCH CIRCUMSTANCES AS THE ASSOCIATION MAY REASONABLY REGULATE. THE PERMISSION OF THE ASSOCIATION MAY BE WITHHELD IN THE SOLE DISCRETION OF THE BOARD OF DIRECTORS, AS IT DEEMS IN THE BEST INTERESTS OF THE MEMBERSHIP.

REMOVAL OF RECORDS:

NO RECORDS MAY BE REMOVED FROM THE ASSOCIATION PREMISES SAVE WITH THE EXPRESS WRITTEN PERMISSION OF AN EXECUTIVE OFFICER OF THE ASSOCIATION, OR PURSUANT TO LEGAL AUTHORITY. THE PERMISSION OF THE ASSOCIATION MAY BE WITHHELD IN THE SOLE DISCRETION OF THE BOARD OF DIRECTORS, AS IT DEEMS IN THE BEST INTERESTS OF THE MEMBERSHIP.

PERIODS OF RETENTION:

THE RECORDS OF THE ASSOCIATION SHALL BE RETAINED FOR THE FOLLOWING PERIODS OF TIME BEFORE DESTRUCTION.

- (a) MULTIPLE LISTING SERVICE (MLS) LISTING CONTRACTS, DATA ENTRY FORMS AND CHANGE FORMS **SHALL BE RETAINED FOR THE CURRENT YEAR, AND THE IMMEDIATELY PRECEDING YEAR.**
- (b) TERMINATED MEMBERSHIP FILES **SHALL BE RETAINED FOR A PERIOD OF TWO YEARS FOLLOWING TERMINATION AS A MEMBER.**
- (c) RESOLUTIONS, MINUTES OF GENERAL AND DIRECTORS MEETINGS **SHALL BE RETAINED FOR A PERIOD OF TWO YEARS FOLLOWING DISSOLUTION OF THE ASSOCIATION.**
- (d) GENERAL LEDGERS **SHALL BE RETAINED FOR A PERIOD OF TWO YEARS FOLLOWING DISSOLUTION OF THE ASSOCIATION.**
- (e) MLS LISTING BOOKS **SHALL BE RETAINED FOR THE CURRENT AND THE IMMEDIATELY PRECEDING YEAR.**
- (f) LEGAL CORRESPONDENCE, PRIVILEGED CORRESPONDENCE, MINISTRY OF CONSUMER AND BUSINESS SERVICES CORRESPONDENCE, AND THE REAL ESTATE COUNCIL OF ONTARIO **SHALL BE RETAINED IN SEGREGATED FILES FOR A PERIOD OF TWO YEARS FOLLOWING DISSOLUTION OF THE ASSOCIATION**
- (g) ARBITRATION AND PROFESSIONAL STANDARDS DOCUMENTS ENTERED AS EVIDENCE AT A HEARING **SHALL BE RETAINED UNTIL THE TIME PERIOD FOR THE FILING OF AN APPEAL HAS BEEN EXPIRED, IN THE EVENT THAT NO APPEAL IS FILED. IF AN APPEAL IS FILED, THE SAID DOCUMENTS SHALL BE RETAINED FOR A PERIOD OF TWO YEARS FOLLOWING THE FINAL DISPOSITION OF THE APPEAL, SUBJECT TO AN ORDER OF A COURT OF COMPETENT JURISDICTION**
- (h) MINUTES OF COMMITTEE MEETINGS **SHALL BE RETAINED FOR A PERIOD OF THREE YEARS.**
- (i) STATEMENTS AND INVOICES **RELATING TO THE BUSINESS OF THE ASSOCIATION SHALL BE RETAINED FOR A PERIOD OF SEVEN YEARS.**
- (j) GENERAL CORRESPONDENCE AND MEMORANDA **OF THE ASSOCIATION SHALL BE RETAINED FOR A PERIOD OF SEVEN YEARS.**
- (k) CURRENT MEMBERSHIP FILES AND CARDS **SHALL BE RETAINED INDEFINITELY, UNTIL THE MEMBERSHIP HAS TERMINATED.**
- (l) MLS SALES BOOKS **SHALL BE RETAINED INDEFINITELY FOR HISTORICAL REFERENCE**

NOTWITHSTANDING ANY OF THE TIME PERIODS SPECIFICALLY MENTIONED ABOVE, IT IS UNDERSTOOD THAT THE SAID TIME PERIODS ARE RECOMMENDED ONLY, AND RECORDS MAY BE

DESTROYED EITHER SOONER, OR LATER, OR NOT AT ALL, AS THE BOARD OF DIRECTORS ACTING IN GOOD FAITH DEEMS APPROPRIATE AND IN THE BEST INTEREST OF THE MEMBERSHIP.

DESTRUCTION OF RECORDS:

DESTRUCTION OF RECORDS SHALL BE DONE ANNUALLY. IT IS PREFERABLE THAT THE SAID RECORDS BE DESTROYED IN A MANNER THAT RESPECTS THE CONFIDENTIALITY OF THE SAID RECORDS, AND THE INTEGRITY OF THE ENVIRONMENT.

NOTICE OF DESTRUCTION:

60 DAYS NOTICE MAY BE GIVEN TO THE MEMBER BROKERS OF THE ASSOCIATION TO PERMIT SUCH BROKER TO REMOVE OR COPY ANY RECORD RELATING TO HIS OR HER BUSINESS PRIOR TO THE ANNUAL DESTRUCTION OF SAID RECORDS.