



Effective: February 16, 2023

## 12. Intimidation, Coercion and Obstruction

The HCRA expects all licensees to carry out their business with honesty and integrity, treat purchasers fairly, and abide by their obligations under the [New Home Construction Licensing Act, 2017](#) (NHCLA) and its regulations, including the [Code of Ethics](#) (O. Reg. 245/21). Generally, these legal and ethical obligations include:

- Never using intimidation or coercion or applying undue pressure to any person
- Never pressuring a person to withdraw (or to not submit) a complaint or concern to the HCRA related to a licensee's conduct.

Specifically, the NHCLA prescribes:

8. A licensee shall not obstruct or attempt to obstruct,

- a) any person from making a complaint to the registrar; or
- b) the registrar or the registrar's representative from inquiring with respect to a complaint.

Additionally, S. 9 and S. 16 of the Code of Ethics reference intimidation, coercion and obstruction, stating:

9. In carrying on business, a licensee shall not intimidate or coerce any person or subject any person to undue pressure.

16. A licensee shall not obstruct or attempt to obstruct,

- a) any person from making a complaint to the registrar; or
- b) the registrar or the registrar's representative from inquiring with respect to a complaint.

Actions the HCRA can take if a licensee has breached their obligations under the Code of Ethics, the NHCLA, or its regulations include:

- Mandating training for licensees and/or its employees;
- Reviewing a licensee's ongoing entitlement to a licence;
- Proposing conditions on a licence;
- Referring the matter to the Discipline Committee, that may mandate training or issue a fine/impose costs;
- Imposing an administrative penalty of up to \$30,000 for instances of obstruction; and



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- Laying a provincial offence charge with a maximum penalty of \$50,000 for an individual and \$250,000 for a non-individual entity.

The HCRA's complaints process is a mechanism that anyone can use to raise concerns about the conduct of a licensee. This process must not be used by licensees as an instrument to coerce or intimidate. For example, if a dispute arises between a licensee and a complainant, the parties may agree to settle the dispute and negotiate a resolution. However, the terms of the resolution must not:

- Prevent a person from submitting a complaint;
- Require a person to withdraw a complaint previously submitted;
- Prevent a complainant from discussing their concerns about a builder with the HCRA in any way.

Furthermore, as the regulator, the HCRA has the authority to look into matters regardless of non-disclosure agreements. Such agreements do not limit the HCRA's ability to respond to concerns. The HCRA may also review concerns regardless of whether a complaint is withdrawn by the original complainant. In addition, the HCRA is permitted to investigate a matter without receiving a complaint.

In addition, a licensee should not threaten to use a complaint to the HCRA – or any regulatory action the HCRA takes in response to that complaint – as part of any other proceeding (such as, for example, threatening to cite a consumer's complaint in a defamation suit). Doing so may fall below the HCRA's conduct expectations and professional standards for licensees.