

Citation: Atira Property Management Inc. (Re), 2024 BCSRE 37

Date: 2024-06-05

File # INC 24-5133

BC FINANCIAL SERVICES AUTHORITY

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*,
SBC 2004, c 42 as amended**

AND

IN THE MATTER OF

**ATIRA PROPERTY MANAGEMENT INC
(X027745)**

NOTICE OF ADMINISTRATIVE PENALTY

[This Notice has been redacted before publication.]

The Superintendent of Real Estate (the "Superintendent") of the BC Financial Services Authority ("BCFSA") issues this Notice of Administrative Penalty (the "Notice") pursuant to sections 57(1) and (3) of the *Real Estate Services Act*, SBC 2004, c 42 ("RESA").

TAKE NOTICE that the Superintendent is satisfied that you have contravened one or more rules designated as subject to administrative penalties under section 56(1)(a) of the RESA and section 26 of the *Real Estate Services Rules* (the "Rules"), collectively, the "Designated Rules".

TAKE NOTICE the Superintendent is imposing the following administrative penalties based on your having contravened the Designated Rules:

1. Rule: 30(e); First contravention: Yes; Penalty: \$5,000

Details: BCFSA conducted an audit of Atira Property Management Inc (the "Brokerage") between August 30, 2023 and November 8, 2023 (the "Audit"). The Audit found that the Brokerage did not maintain client confidentiality when:

- a. the Brokerage held one Annual General Meeting on May 11, 2023 for different clients, that is, for Strata [Corporation 1]'s residential and commercial sections, with all sections of the strata corporation present, where financial information such as budgets and other issues were included in notices to the other sections and were discussed in the presence of the other sections; and
- b. the Brokerage allowed the residential and commercial sections of Strata [Corporation 1], which share the same relationship portfolio at [Bank 1], to see each other's banking

information and trust account balances when the monthly financial packages were provided to each section.

2. Rule: 30(i); First contravention: Yes; Penalty: \$5,000

Details: The Audit found that the Brokerage did not take reasonable steps to avoid any conflict of interest when:

- a. the Brokerage did not declare to its clients, Strata [Corporation 2] and rental property [Property 1], Vancouver, who its primary/secondary clients were in the respective service agreements or obtain its clients' consent prior to managing both the strata corporation and a rental property within the strata corporation, or address any potential conflicts of interest with managing both the strata corporation and the rental property, and how the Brokerage intended to deal with them; and
- b. the Brokerage had only one service agreement with Strata [Corporation 1] and not with each of the sections and the Brokerage did not declare to its clients, Strata [Corporation 1]'s residential and commercial sections, who its primary/secondary clients were in the service agreement with the strata corporation or obtain its clients' consent when managing a strata corporation and the sections within the strata, or address any potential conflicts of interest with managing both the strata corporation and the sections within the strata, and how the Brokerage intended to deal with them.

3. Rule: 88; First contravention: Yes; Penalty: \$1,000

Details: Between August 30, 2023 and November 8, 2023, BCFSAs audit of the Brokerage found that:

- a. the Brokerage did not maintain a separate set of books and bank accounts for the Strata [Corporation 1] and its residential and commercial sections; and
- b. the Brokerage did not maintain a separate set of financial statements for the Strata [Corporation 1]. The financial statements provided to the strata corporation was a consolidation of the balances from both the residential and commercial sections.

(collectively the "Contraventions").

Total administrative penalties: \$11,000

TAKE FURTHER NOTICE you may respond to this Notice by requesting an opportunity to be heard as follows (a "Reconsideration Request"):

- a. *Time limit:* You must deliver any Reconsideration Request so that BCFSAs receives it within thirty (30) calendar days of the date you received this Notice (the "Response Deadline").
- b. *Format:* A Reconsideration Request Form must be completed.

- c. *Content:* A Reconsideration Request should explain how you exercised due diligence to prevent contravention of the Designated Rules. You may also provide any other information you believe the Superintendent should consider.
- d. *Delivery:* A Reconsideration Request may be delivered by email to APreconsiderations@bcfsa.ca and/or delivered to BCFSAs offices at 600 – 750 West Pender Street, Vancouver, BC V6C 2T8, Attention: Legal Services – Reconsiderations.

The date you received this Notice is the earliest date on which

- the Superintendent personally served you with the Notice (s 57(3)(a) or (b) of the RESA);
- the Superintendent provided “substituted service” by a method provided for in a court order (s 12 of the RESA); or
- the Superintendent provided this Notice to Canada Post for delivery to your mailing address (ss 18 and 19 of the Rules). This will normally also be the day it was emailed to you.

If BCFSAs receives your Reconsideration Request by the Response Deadline, the Superintendent will consider your Reconsideration Request, and may cancel or confirm each of the administrative penalties. If BCFSAs confirms an administrative penalty, payment is due immediately.

TAKE FURTHER NOTICE if you fail to deliver a Reconsideration Request by the Response Deadline, you are deemed to acknowledge your having contravened the specified Designated Rules (s 57(2)(d) of the RESA).

TAKE FURTHER NOTICE that unless you deliver a Reconsideration Request by the Response Deadline, you must pay the administrative penalties within thirty (30) calendar days of the date you received this Notice. The Reconsideration Request may be by email or otherwise in writing, and should attach or include information respecting the due diligence exercised to avoid the contravention, any extenuating circumstances that prevented compliance, and any other information that you wish BCFSAs to consider.

Dated this 5th day of June, 2024 at the City of Vancouver, British Columbia.

Superintendent of the BC Financial Services Authority

“Original signed by Lisa Holst”

Lisa Holst
Delegate of the Superintendent of Real Estate
Province of British Columbia