

# Report from Council

## New Chair, Vice-Chair Elected

### First meeting of 2012/13 Council held in July

At the first meeting of the 2012/13 Council in July, Michael Ziegler of Newport Realty Ltd., Victoria, was elected as Chair of the Real Estate Council for the 2012/13 term. Marshall J. Cowe of Royal LePage Coronation West Realty, Coquitlam, was elected as Vice-Chair.

As licensees are aware, there are 16 members of the Real Estate Council, including three members appointed by the provincial government. Thirteen members are

chosen through an election process open to all real estate licensees in the province. The elected members are comprised of three representatives and nine brokers representing the various provincial counties. One individual is elected as the strata/rental property management member. Members are elected for two-year terms, with half of the Council elected each May, thus ensuring continuity. The names of the other Council members are listed in the right margin on the next page. ■



Michael Ziegler

Marshall Cowe

## New Broker's Licensing Course

### Business Planning and Financial Management

On July 1, 2012, the UBC Sauder School of Business Real Estate Division and the Real Estate Council launched a new **Broker's Licensing Course**, which focuses on public protection and business planning, financial management, human resources management and leadership. The course is designed to provide the licensing education requirements for those who wish to become licensed as a brokerage, managing broker or associate broker and for those licensees looking to increase their knowledge on a variety of business, accounting and leadership topics.

The new course is a result of a number of information gathering and curriculum design initiatives, which included but were not limited to:

- a detailed skills analysis building upon the National Core Curriculum, which took into account BC's unique situation in which a managing broker may be responsible for real estate trading, rental property management and strata management licensees, or any combination thereof, in a single brokerage;
- a comparison of various provincial courses, including Ontario, Manitoba and Alberta;
- feedback from various BC real estate boards; and,
- a review of the course materials by a number of real estate practitioners, regulators and subject matter experts.

As well, among the authors for the course were a variety of UBC Sauder School of



Business faculty members and instructors, including representatives from the MBA and Executive Education programs.

There have been a number of changes to the course curriculum to make it relevant to licensees from all licence levels and in all categories of real estate services. Licensees who would like more information about the new Broker's Licensing Course are encouraged to visit:

[www.sauder.ubc.ca/Programs/Real\\_Estate\\_Division/Licensing\\_Courses/Brokers](http://www.sauder.ubc.ca/Programs/Real_Estate_Division/Licensing_Courses/Brokers). ■



# A Note from the Chair



Michael Ziegler,  
Chair

It is an honour to be elected as Chair of the Council for the 2012-2013 term and I look forward to working with Vice-Chair Marshall Cowe and the other members of the Council. I want to thank past Chair Bryon Brandle for his leadership and guidance over the past year.

As mentioned in the June *Report from Council*, we welcome newly elected member David Rishel of Abbotsford. We also welcome back re-elected members William (Bill) Binnie, William (Bill) Phillips, Subhadra Ghose, Susan McGougan and Marshall Cowe.

The Council's Strategic Plan highlights the importance of licensee education and, in particular, places a greater emphasis on managing/associate broker education. In that regard, the UBC Sauder School of Business Real Estate Division, in conjunction with the Council, has launched a new Broker's Licensing Course. The course has been completely re-written with a focus on business planning, financial management, human resources and leadership. I encourage all licensees to have a look at the information contained in the article on the cover page of this newsletter.

The Council continues to receive complaints about licensees providing rental property or strata management services

independent of their related brokerage. Licensees are not allowed to provide rental or strata management services "on the side" or through a company that they have set up "on the side". Licensees must be properly licensed to provide rental and/or strata management services and licensees must conduct all rental and/or strata management services through their related brokerage office.

Finally, it would appear that the real estate market will continue to fluctuate over the next year and with that change will come many challenges. As a result, I urge you to use your best efforts to ensure that you do your part to maintain the high ethical standards that this industry is built upon.

On behalf of Council members and staff, I wish you a busy, productive and enjoyable summer.

Michael Ziegler,  
Chair

## Office Closures

The Council office will be closed on **Monday, September 3, 2012** for Labour Day and **Monday, October 8, 2012** for Thanksgiving.

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**Real Estate Council of BC**  
CHAIR—R.E. Michael Ziegler  
VICE-CHAIR—Marshall J. Cowe  
EXECUTIVE OFFICER—Robert O. Fawcett

### COUNCIL MEMBERS

Barbara Barry  
William R. Binnie  
Bryon Brandle  
J. Garth Cambrey  
Subhadra Ghose  
Abdul R. Ghouri  
Marylou Leslie  
Susan Lynch  
Susan McGougan  
John J. Nagy  
Patrick O'Donnell  
William B. Phillips  
David Rishel  
Bruce Turner

### STATISTICS

August 2012

Representatives: 17,916  
Associate Brokers: 1,678  
Managing Brokers: 1,317  
Total Licensees: 20,744  
Brokerages (including branch offices  
and sole proprietors): 1,448

### Role of the Council

The Real Estate Council is a regulatory agency established by the provincial government. Its mandate is to protect the public interest by enforcing the licensing and licensee conduct requirements of the *Real Estate Services Act*. The Council is responsible for licensing individuals and brokerages engaged in real estate sales, rental and strata property management. The Council also enforces entry qualifications, investigates complaints against licensees and imposes disciplinary sanctions under the Act.

### Report from Council

The *Report from Council* newsletter is published six times per year. Past issues can be found at [www.recbc.ca](http://www.recbc.ca).

### Canada Post

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# Radon Gas—A Health and Environmental Concern in Some Areas of the Province

All licensees are reminded that they are expected to demonstrate competency and apply reasonable care and skill in their provision of real estate services to their clients, whether those services are trading, rental property management or strata property management services. In order to demonstrate competence, a licensee must be knowledgeable about local environmental conditions that may be material to the interests of their clients, be they buyers, sellers, landlords, tenants or strata corporations. While licensees are not expected to be experts in all areas that impact real estate, they are expected to be alert to potential environmental/health concerns in the areas in which they practice and are obliged to advise clients to seek independent professional advice on matters outside of the expertise of the licensee.

An example of an environmental/health concern affecting real estate that has

been widely reported is the presence of radon gas in some areas of the province. The links below are excellent sources of information on radon gas that licensees may wish to review and direct any clients to, who may be impacted by the potential for the presence of radon gas in a property they occupy, or are considering selling or buying.

[www.healthlinkbc.ca/healthfiles/hfile42.stm](http://www.healthlinkbc.ca/healthfiles/hfile42.stm)

[www.cmhc-schl.gc.ca/odpub/pdf/61945.pdf](http://www.cmhc-schl.gc.ca/odpub/pdf/61945.pdf)

The Council expects licensees to take appropriate steps to alert their clients to the existence of known health or environmental concerns, in the geographic area(s) in which they provide real estate services. A prudent licensee may wish to research and be able to provide suggestions as to where clients may obtain factual infor-



mation and independent advice, such as the links provided above. In addition to radon gas, this expectation would apply to other environmental/health considerations that impact real estate, including but not limited to, underground oil storage tanks, asbestos, sewage, suitability of site topography and water potability. ■

## Receiving Referral Fees

Section 5-11 of the Council Rules requires a licensee to disclose in writing to a client any remuneration the licensee anticipates receiving that is not to be paid directly by that client. Therefore, if a licensee is to receive a referral fee for referring a client to another service provider, be that another licensee or another person providing services related to real estate (e.g., a mortgage broker, appraiser, etc.), the licensee is required to disclose to the client the details of this referral. Those details include:

- the source (who is paying the referral fee);
- the amount, or if the amount is unknown, the likely amount or method of calculation of the amount; and
- any other relevant facts related to the referral fee.

Remuneration is a very broadly defined term, and includes any form of benefit, whether it be money or otherwise (e.g., mortgage points). All referral fees, benefits, and other forms of remuneration

must be received through the brokerage with which the licensee is engaged.

Further, section 3-3 (1)(e) of the Council Rules requires a licensee to maintain the confidentiality of information respecting a client. This is consistent with privacy law, which requires that a licensee not provide a client's personal information to a third party without that client's consent, or unless otherwise required by law to do so. In the course of making a referral, the type of information a licensee may be asked to provide to another licensee or service provider will vary. Some referrals may involve basic contact information (e.g., name and telephone number or email address) whereas some may require details concerning the client's real estate, mortgage or appraisal requirements.

In all cases, the information must be treated as confidential and cannot be released to a third party without first obtaining the

consent of the client. Licensees may find more detailed information on this matter at [www.cio.gov.bc.ca/local/cio/priv\\_leg/documents/pipa/guidepipaview.pdf](http://www.cio.gov.bc.ca/local/cio/priv_leg/documents/pipa/guidepipaview.pdf)

### Example

Mr. Seller, a client of Licensee Good, wants to purchase a home in the market area worked by Licensee Best. Licensee Good refers Mr. Seller to Licensee Best on the understanding that Licensee Best agrees to pay Licensee Good a referral fee if Mr. Seller buys a home through Licensee Best. In order to comply with section 5-11 of the Council Rules, Licensee Good must disclose to Mr. Seller that he anticipates receiving a referral fee from Licensee Best if Mr. Seller buys a home through Licensee Best. He must also disclose the amount or the method of calculation of the amount. In addition, Licensee Good must also obtain Mr. Seller's consent to providing Mr. Seller's personal information to Licensee Best. ■

# Exemptions for Caretakers or Managers Employed by Brokerages or Strata Corporations

Section 2.14(1) of the Real Estate Services Regulation exempts individuals from licensing who are employed as caretakers or managers of rental real estate by a brokerage that is licensed to provide rental property management services.

Similarly, section 2.18(1) of the Real Estate Services Regulation exempts individuals from licensing who are employed as caretakers or managers by a strata corporation or by a brokerage that provides strata management services to or on behalf of a strata corporation.

There are several key components of these exemption regulations that brokerages employing unlicensed persons who act under it need to understand. First, the relationship between the brokerage and such a person must be one of employer/employee. The individual cannot act as an independent contractor providing services to or on behalf of the brokerage. Whether or not an individual will be considered to be an employee or an independent contractor for the purposes of the exemption depends on the unique circumstances in each case. In making this determination the Council will consider similar criteria to those used to determine if a worker is an employee or an independent contractor under the *Income Tax Act*. Briefly, some of the factors the Council may consider are:

- The intention of the parties;
- The level of control the payer has over the worker;
- Whether the worker provides the tools and equipment;



- Whether the worker can subcontract the work or hire assistants;
- The degree of financial risk taken by the worker;
- The degree of responsibility for investment and management held by the worker;
- The worker's opportunity for profit (can the worker increase their proceeds or decrease their expenses to increase profit?); and
- Any other relevant factors, such as written contracts or statutory deductions.

Brokerages are expected to keep documentation evidencing an employer/employee relationship, including any documents that take into consideration the

above factors, which may include employment contracts, job descriptions, or evidence of statutory deductions, such as income tax, employment insurance premiums, Canada Pension Plan contributions etc.

Brokerages may wish to seek independent legal and/or accounting advice to ensure that their worker will meet the requirement set out in the exemptions. For further information, brokerages should refer to the guide published by the Canada Revenue Agency found at [www.cra-arc.gc.ca/E/pub/tg/rc4110/README.html](http://www.cra-arc.gc.ca/E/pub/tg/rc4110/README.html) and a guide to the *BC Employment Standards Act* found at [www.labour.gov.bc.ca/esb/esaguide/](http://www.labour.gov.bc.ca/esb/esaguide/).

## Notice of Licensee Resignation

**Steven Gordon Croft**, while licensed as a representative with Croft Agencies Ltd., Surrey, requested the Real Estate Council of British Columbia to discontinue disciplinary proceedings against him as he had decided to permanently retire from real estate practice. Mr. Croft was

facing a disciplinary hearing into his professional conduct and would have been required to appear before a hearing panel of the Real Estate Council to respond to these allegations. Considering the fact that there is likely no greater disciplinary sanction than not being licensed to

act again, the Real Estate Council agreed with Mr. Croft's request. The lifetime ban on Mr. Croft's licensing under the *Real Estate Services Act* was effective as of June 19, 2012, although he surrendered his licence to the Real Estate Council on June 11, 2011. ■



# Disciplinary Decisions

Since the June 2012 *Report from Council* newsletter, the following actions have been taken as a result of disciplinary hearings and Consent Orders conducted by the Council.

## Trading Services

### Karnveer Singh Dodd

**ISSUE:** Karnveer Singh Dodd, representative, West Coast Realty Ltd. (Vic) dba Sutton Group-West Coast Realty (Vic), Victoria, entered into a Consent Order with the Council that he, while licensed with Camosun Properties Ltd. dba Re/Max Camosun, Victoria, committed professional misconduct within the meaning of section 35(1) of the *Real Estate Services Act* in that he:

- (a) contrary to section 35(1)(g) of the *Real Estate Services Act*, made a false or misleading statement in a document that is required or authorized to be produced or submitted under the Act, in that in the Licence Application he answered “No” to the question “Have you ever had any court orders or judgments made against you in relation to real estate services, a dealing in insurance, mortgages or securities, or misappropriation, fraud or breach of trust?” when at the time of him signing the Licence Application he was the subject of a Judgment;
- (b) contrary to section 2-21(2)(b)(i) of the Council Rules, failed to notify the Council in writing that a judgment had been made against him in relation to real estate services, in that he failed to notify Council in writing of the Judgment;
- (c) contrary to section 2-21(4) of the Council Rules, failed to give a copy of the notice referred to in paragraph (b) above, in that he failed to give any notice of the Judgment to his managing broker;
- (d) contrary to section 3-4 of the Council Rules, failed to act honestly and with reasonable care and skill in that he either led the buyers to believe by false or incomplete representations, or made the following representations to the buyers:
  - (i) the house forming part of the property was new and was a show home;
  - (ii) the list price for the property was \$699,000 plus GST;

- (iii) the sale price was \$725,000 including GST;
- (iv) Mr. Dodd would be responsible for remitting GST; and
- (v) the warranty would commence on the completion date of the buyers’ purchase of the property; when in fact:
  - (vi) the house had been occupied since May 30, 2007, was the residence of Mr. Dodd and was therefore not “new” for GST purposes;
  - (vii) the buyers’ purchase of the property was not subject to GST;
  - (viii) the sale price did not include GST as no GST was payable on the sale price; and
  - (ix) the warranty had already commenced on May 30, 2007.

**RESULT:** Karnveer Singh Dodd was suspended for sixty (60) days from August 1, 2012 to September 29, 2012 (inclusive), and was ordered to successfully complete the Real Estate Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Raymond Maaske dba Homestar Realty

**ISSUE:** Raymond Maaske dba Homestar Realty, Sole Proprietor, Summerland, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* while acting as the listing representative in the sale of the property, in that he:

- (a) breached client confidentiality in that he had a conversation with the seller in front of the buyer in which he discussed with the seller confidential information, contrary to section 3-3(1)(e) of the Council Rules;
- (b) failed to ensure that the seller had all of the information upon which he could make an informed decision as to how to proceed, contrary to section 3-4 of the Council Rules;
- (c) failed to use reasonable care and skill in that the Contract of Purchase and Sale did not contain the full details of the agreement between the parties, contrary to section 3-4 of the Council Rules; and
- (d) favoured his own buyer’s offer over others thereby failing to act in the seller’s best interest when he permitted one buy-

er’s offer to be dealt with by the seller prior to the expiry of the time he had set for dealing with the offers, contrary to section 3-3(1)(i) of the Council Rules.

**RESULT:** Raymond Maaske dba Homestar Realty was suspended for twenty-one (21) days from June 27, 2012 to July 17, 2012 (inclusive), and was ordered to successfully complete the Real Estate Trading Services Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Xiao Ming (Alban) Wang

**ISSUE:** Xiao Ming (Alban) Wang, representative, and Alban Wang Personal Real Estate Corporation, while licensed with Sunrich Realty Ltd. dba Amex Sunrich Realty, Richmond, committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that they:

- (a) contravened section 27(1) of the *Real Estate Services Act* in that they failed to promptly pay deposits in twelve transactions to the brokerage in accordance with the Contracts of Purchase and Sale; and
- (b) contravened section 3-2(1)(b) of the Council Rules in that they failed to promptly provide the managing broker the original or a copy of all records for the said transactions.

**RESULT:** Xiao Ming (Alban) Wang and Alban Wang Personal Real Estate Corporation were suspended for fourteen (14) days from August 8, 2012 to August 21, 2012 (inclusive). Mr. Wang was ordered to successfully complete the Real Estate Trading Services Remedial Education Course. Further, Mr. Wang and Alban Wang Personal Real Estate Corporation were ordered to be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

### Walter Harvey May Re/Max Real Estate Services

**ISSUE:** Andrews Realty Ltd. dba Re/Max Real Estate Services, Vancouver, entered into a Consent Order with the Council

## Disciplinary Decisions, *cont'd*

that it committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that it:

(a) contravened section 31 of the *Real Estate Services Act* and section 5-15 of the Council Rules by advancing commissions to licensees before the commissions were earned in accordance with section 5-15 of the Council Rules; and

(b) contravened section 7-5 of the Council Rules by making payments out of the brokerage commission trust account for bank service charges for a lengthy period of time causing a negative balance in the brokerage trust account.

**ISSUE:** Walter Harvey May, managing broker, Andrews Realty Ltd. dba Re/Max Real Estate Services, Vancouver, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:

(a) contravened section 6(2) of the *Real Estate Services Act* and sections 3-1(1)(b) and 3-1(3) of the Council Rules in that he:

(i) permitted the brokerage to advance commission to licensees before they were earned in accordance with section 5-15 of the Council Rules and contrary to section 31 of the *Real Estate Services Act*; and  
(ii) permitted a shortage in the brokerage trust account to develop as a result of bank service charges, and continue over a lengthy period of time, contrary to section 7-5 of the Council Rules.

**RESULT:** Andrews Realty Ltd. dba Re/Max Real Estate Services was reprimanded and was ordered to pay the costs of a re-audit of the brokerage within six months of the date of the Order herein and pay the costs of the re-audit to the Council in the amount of \$75.00 per hour.

**RESULT:** Walter Harvey May was reprimanded and was ordered to successfully complete the Real Estate Trading Services Remedial Education Course, and to successfully complete the disciplinary education assignments applicable to Chapter 2 (The *Real Estate Services Act*) and Chapter 4 (Introduction to Financial Statements) of the Broker's Licensing Course.

**RESULT:** Re/Max Real Estate Services and Walter Harvey May were ordered to be jointly and severally liable to pay a discipline penalty to the Council in the

amount of \$2,000.00, be jointly and severally liable to pay the costs of the audit to the Council in the amount of \$675.00 and be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,000.00.

### Ryan Fan

**ISSUE:** Ryan Fan, representative, West Coast Realty Ltd. (Brdwy) dba Sutton Group-West Coast Realty (Brdwy), Vancouver, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that, while acting as the buyer's agent regarding property located on Ash Street, Vancouver, B.C., he:

(a) failed to discover relevant facts regarding the property by failing to ascertain the correct locker that the buyer would be permitted to use, contrary to section 3-3(1)(h) of the Council Rules;

(b) failed to act with reasonable care and skill in that he failed to recommend to the buyer that the contract be made subject to the buyer receiving written verification from the strata council as to which locker the buyer would be permitted to use, contrary to section 3-4 of the Council Rules; and

(c) failed to act with reasonable care and skill in that he acted upon the instructions of the buyer to remove the lock from the storage locker and dispose of the contents of the storage locker without ensuring he had the proper legal authority to do so, or that he caused or permitted either or both of the above said actions to occur, contrary to section 3-4 of the Council Rules.

**RESULT:** Ryan Fan was reprimanded; and was ordered to pay a discipline penalty to the Council in the amount of \$2,000.00, successfully complete the Real Estate Trading Services Remedial Education Course, and pay enforcement expenses to the Council in the amount of \$1,000.00.

### David Canosa

**ISSUE:** David Canosa (now known as Davide Canosa), Multiple Realty Ltd., Vancouver, was found by a Discipline Hearing Committee to have committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he:

(a) failed to apply reasonable care and skill in completing paragraph 20 of the Contract of Purchase and Sale, and by failing to have the Limited Dual Agency Agreement signed before real estate services were provided, contrary to section 3-4 of the Council Rules;

(b) failed to ensure that the listing agreement with the seller included the details of an arrangement he made with the seller and the seller's family that in specific circumstances he would reduce the amount of remuneration payable under the agreement, contrary to section 5-1(4)(f) of the Council Rules;

(c) failed to promptly provide his managing broker the original or copies of all trading records until after the subjects had been removed on June 5, 2009 although the seller's acceptance was dated May 27, 2009, contrary to section 3-2(1)(b) of the Council Rules; and

(d) failed to apply reasonable care and skill in the drafting of the Contract of Purchase and Sale in that the contract did not provide the date upon which the deposit was payable, contrary to section 3-4 of the Council Rules.

**RESULT:** David Canosa was reprimanded and ordered to pay enforcement expenses to the Council in the amount of \$1,000.00.

## Rental Property Management Services

### Carrie Frances Stephenson

**ISSUE:** Carrie Frances Stephenson, currently unlicensed, entered into a Consent Order with the Council that, while licensed as managing broker with Paris Realty Ltd. dba Royal LePage Fraser Valley-Aldergrove, Abbotsford, she committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that she:

#### File 09-043

(a) contravened section 27(1)(a) of the *Real Estate Services Act* in that she failed to pay or deliver to her brokerage a deposit cheque dated August 7, 2007 in the amount of \$3,000.00 received from tenants for the rental of property; and

(b) contravened section 3-1(1) and/or 3-1(3) of the Council Rules in that she

## Disciplinary Decisions, *cont'd*

failed to ensure that the brokerage maintained proper books and records in accordance with section 25 of the *Real Estate Services Act* by permitting the brokerage to pay the owner a payment of \$1,682.00 when the first month's rent and security deposit cheque received from the tenants was not yet deposited by the brokerage in its trust account, thus reducing the trust ledger for the account to a negative balance;

### File 10-191

(c) contravened section 3-3(1)(a) and/or section 3-3(1)(c) of the Council Rules in that she failed to act in the best interests of her client and only within the scope of authority given by the client when she allowed the tenant occupying the upper level unit of the rental property to also occupy the lower level unit, after the tenant renting the lower level unit had vacated, without the client's knowledge or instructions;

(d) contravened section 3-1(1) and/or section 3-1(3) of the Council Rules, by failing to ensure that the brokerage kept proper books, accounts and other records which failed to account for a security deposit in the amount of \$700.00 paid to the brokerage by the upper level unit tenant by cheque dated August 1, 2007;

(e) contravened section 3-4 of the Council Rules in that she advised the tenant in the lower level unit of the rental property, who had filed a Dispute Resolution Hearing Notice against the brokerage as agent for the owner that her brokerage was no longer providing rental property management services to the owner and that neither she nor the brokerage could act on the owner's behalf at the hearing, which she knew or ought to have known was untrue or misleading at the brokerage was, at the time in question and thereafter, providing rental property management services to the owner; and

(f) contravened section 3-3(1)(a) and/or section 3-3(1)(f) in that she failed to inform the owner of a Notice of Dispute Resolution Hearing which resulted in the owner not being able to represent himself at the hearing and which resulted in the tenant obtaining a Default Order in the amount of \$2,023.18 against the brokerage as agent for the owner.

**RESULT:** Carrie Frances Stephenson was ordered not to apply to be licensed as a

managing broker until after July 8, 2014. Any application for licensing as a managing broker will be subject to Ms. Stephenson successfully completing the Broker's Licensing Course and examination. She is immediately eligible to be licensed as an associate broker or representative for trading, rental property management or strata management. As a condition of relicensing, Ms. Stephenson must successfully complete the disciplinary education assignments applicable to Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Broker's Licensing Course and enroll in and attend the first available CPE course "What Brokerage and REALTORS® Need to Know About Agency". If Ms. Stephenson intends to be licensed as a managing broker, associate broker or representative for rental property management or strata management, she must successfully complete the supplemental rental property management supplemental course and examination or the property management supplemental course and examination or both, as a condition of licensing, whichever the case may be. Further, she was ordered to pay enforcement expenses to the Council in the amount of \$1,000.00.

## Strata Mangement Services

### Suzanne Lilianne Sauvé

**ISSUE:** Suzanne Lilianne Sauvé, representative, Fraser Property Management Realty Services Ltd., Maple Ridge, entered into a Consent Order with the Council that:

(1) while licensed from April 4, 2006 to January 24, 2007 with Ridge-Meadows Realty dba Re/Max Ridge-Meadows Realty, Maple Ridge, as it was then known, (2) while licensed from January 25, 2007 to June 3, 2008 with Results Realty Ltd. (MplRdg) dba Keller Williams Results Realty (MplRdg), Maple Ridge, as it was then known, and

(3) while licensed from June 3, 2008 to present with Fraser Property Management Realty Services,

she committed professional misconduct within the meaning of section 35(1)(d) of the *Real Estate Services Act* in that, while providing strata management services, she: (a) failed to document in the minutes the authorization of the strata corporation to en-

ter into a natural gas contract with a private natural gas supplier on or about September 5, 2006 for a five year term commencing February 2007, contrary to sections 3-3(1)(a) and 3-3(1)(c) of the Council Rules; and

(b) failed to ensure the strata council for a strata corporation set the agenda for the special general meeting held July 6, 2010, including authorizing the inclusion of the resolution removing a strata council member by way of a majority vote, pursuant to section 46(1) of the *Strata Property Act* and section 20 of the strata corporation's by-laws, and that any action taken thereunder be only made at a general meeting of the strata corporation and not by a purported delegated authority to the strata council.

**RESULT:** Suzanne Lilianne Sauvé was suspended for thirty (30) days, from July 11, 2012 to August 9, 2012 (inclusive), and was ordered to successfully complete the Strata Management Remedial Education Course and pay enforcement expenses to the Council in the amount of \$1,000.00.

### Louis Man Kam Kwong

**ISSUE:** Louis Man Kam Kwong, managing broker, while licensed with Sunrich Realty Ltd. dba Amex Sunrich Realty, Richmond, entered into a Consent Order with the Council that he committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* in that he contravened section 3-1(1)(a) and (b) and section 3-1(3)(a) and (b) of the Council Rules in that he:

(a) failed to ensure that the brokerage maintained proper and up to date books, accounts and other records as required by section 25 of the *Real Estate Services Act*, and sections 8-2 and 8-3 of the Council Rules;

(b) failed to ensure that the brokerage provided the complainants no later than six weeks after the end of the month for which the statement under the required subsection was issued, a copy of that statement and the monthly reconciliation referred to in section 8-2(b) of the Council Rules in relation to that statement;

(c) failed to ensure that the brokerage acted only within the scope of authority given by the strata, as required by section 3-3(1)(c) of the Council Rules in that:

(i) the brokerage refunded prepaid

## Disciplinary Decisions, *cont'd*

amounts for three units without having first sought the strata's approval;

(ii) the brokerage filed a T2 for the year ending July 31, 2007 on behalf of the strata without their review and approval;

(iii) the brokerage continued to withdraw on behalf of the strata, through automatic withdrawal system, strata fees from strata lot owners' bank accounts for the months of March 2009 and April 2009 even though the brokerage's written services agreement with the strata corporation had ended February 28, 2009;

(d) failed to ensure that the brokerage provided the records belonging to the complainants as requested by the complainants by the date that is four weeks following the date of termination, that being February 28, 2009, as required by section 8-7.1(4) of the Council Rules;

(e) failed to ensure that the complainants were provided timely financial statements and bank reconciliations, as required by section 7-9(7)(b) of the Council Rules; and

(f) failed to ensure that the brokerage's written service agreement, for the provision of strata management services, included the following clauses, as required by sections 5-1(5.1)(a) through (f) of the Council Rules:

(i) an indication of where the brokerage

will be holding one or more of (i) contingency reserve fund money, (ii) operating fund money, (iii) special levy money, (iv) other amounts, on behalf of the brokerage;

(ii) any authority under section 30(1)(g) of the *Real Estate Services Act* for the brokerage to transfer amounts (i) between the brokerage trust accounts maintained under section 7-9(2) of the Council Rules for the strata corporation, or (ii) from such a brokerage trust account under section 7-9(2) (a) of these rules to a pooled trust account from one or more strata corporations;

(iii) the scope of authority of the brokerage or a related licensee when acting on behalf of the strata corporation, including any authority to (i) sign cheques or make disbursements on behalf of the strata corporation, (ii) enter into contracts on behalf of the strata corporation, and (iii) invest money held by the brokerage on behalf of the strata corporation;

(iv) the timing, frequency and nature of accounting statements and other records to be provided by the brokerage to the strata corporation, in addition to those required to be provided under section 7-9(7) of the Council Rules;

(v) a description of the records that are to be kept by the brokerage on behalf of the strata corporation, including an in-

dication of which, if any, of the records required under section 35 of the *Strata Property Act* that the brokerage will retain on behalf of the strata corporation;

(vi) provision respecting the use and disclosure of information respecting the strata corporation, including the use and disclosure of personal information respecting the owners who are the members of the strata corporation; and

(g) failed to ensure that Nancy Yan Yan Chan, a licensee with his brokerage, was licensed to conduct strata management services before she performed those services.

**RESULT:** Louis Man Kam Wong's managing broker's licence was suspended for seven (7) days from August 8, 2012 to August 14, 2012 (inclusive) but that he is immediately eligible to be licensed as an associate broker or representative. It was ordered that the brokerage be re-audited within six months from the date of the Order and that Mr. Kwong pay the costs of the audit in the amount of \$75.00 per hour, that he successfully complete the Strata Management Remedial Education Course, and pay enforcement expenses to the Council in the amount of \$1,000.00. ■

### Feedback?

Please send any comments about the *Report from Council* newsletter to:

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