



# Report from Council

February 2006 Volume 41, No. 4

## Strata Manager Licensing Now in Effect

Effective January 1, 2006, those who provide strata management services are required to be licensed under the *Real Estate Services Act*. A few noted exceptions to the licensing requirement include self managed strata corporations and caretakers. The *Real Estate Services Act* defines "strata management services" as "any of the following services provided to or on behalf of a strata corporation:

(a) collecting or holding strata fees, contributions, levies or other amounts levied by, or due to, the strata corporation under the *Strata Property Act*;

(b) exercising delegated powers and duties of a strata corporation or strata council, including

(i) making payments to third parties on behalf of the strata corporation,

(ii) negotiating or entering into contracts on behalf of the strata corporation, or

(iii) supervising employees or contractors hired or engaged by the strata corporation."

**If you or your brokerage are providing any strata management services (including residential, commercial, industrial, bare land, etc.) and you have not applied to have your licence amended to do so, you are now in contravention of the *Real Estate Services Act*. You must either cease and desist or make immediate application to the Council office.** It should be noted that the brokerage, managing broker, and all licensees who are to provide strata management services must take the necessary steps to become licensed.

The 4th Special Report to Licensees circulated to all licensees in July 2005 detailed many of the licensing requirements for strata management service providers. This Report, the Council Rules, and a number of other documents related to these new requirements are posted on the Council's website [www.recbc.ca](http://www.recbc.ca). Once you have reviewed this information, should you have any questions, please do not hesitate to contact the Council office at 604-683-9664, or toll free at 1-877-683-9664.

Over the past several months, Council staff has been extremely busy processing applications for strata licences. As of February 1, 2006, 232 brokerages and 775 individuals have become licensed to provide strata management services in the province.

## Finished Area Measurements Update

The October 2005 *Report from Council* contained an article related to a method of calculating the floor area and finished floor area of properties. This article resulted from the fact that licensees had confirmed that the Canadian Real Estate Association's definition of 'living area' only including floor area that is situated above grade, was not adhered to in British Columbia.

The American National Standards Institute (ANSI) method outlined in the October article appeared to more accurately reflect measurement methods used in British

Columbia. However, feedback received since publishing that article suggests that may not be the case in all areas of the province.

This underscores the fact that there is more than one standard that can be applied. In making measurements, it is important that licensees be consistent with how they are typically done for the particular market and for the given property type. Some licensees, as part of their due diligence in taking a new listing, have found it useful to engage a company that specializes in measuring properties.

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##### STATISTICS

(FEBRUARY 2006)

REPRESENTATIVES: 13,554

ASSOCIATE BROKERS: 1,974

MANAGING BROKERS: 1,334

BROKERAGES: 1,362

##### 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.realtorlink.ca](http://www.realtorlink.ca)

For further information, contact:  
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## A Note From the Chair

Happy New Year. It's hard to believe that we are well into the New Year already and it would appear that 2006 will continue at the same active pace as last year. The active market, the increased number of licensees and consumer expectations all require licensees to provide the highest level of competence in any service they render. Consumers rely on the expertise of licensees and the Council expects that licensees will always do the right thing and put the interests of their clients first.

Speaking of doing the right thing, this Report contains a number of significant disciplinary decisions. You will note that some of the decisions contain substantial enforcement expenses and, for the

first time, fines levied in conjunction with a disciplinary decision.

As well, in calendar 2005, there was a significant increase in the number of disciplinary actions compared with previous years. Licensees who are interested in reviewing the Council's disciplinary decisions for the last three years may access them on the Council's website at [www.recbc.ca](http://www.recbc.ca).

In March, the Council will be producing a 5th Special Report to Licensees which will provide comprehensive information about the disclosures required under the Council Rules, including section 5-9 (disclosure of an interest in trade) and section 5-11 (disclosure of



**Dougal Shewan**

remuneration). This Special Report will be extremely useful for licensees in complying with these sections of the Council Rules.

*On behalf of Council,  
Dougal Shewan, Chair*

## Staff Appointment

Bettina Rodenkirchen recently joined the Council staff as its Rental and Strata Property Management Information Officer.

Prior to joining the Council, Bettina worked for nearly 30 years in varying capacities in the real estate and property management industry. During this time, Bettina managed

diversified portfolios of commercial, industrial, rental and large strata corporations. Bettina also served as a strata property advisor for the Condominium Home Owners' Association of BC.

In her new role, Bettina will work closely with the Council's audit and compliance departments.



**Bettina Rodenkirchen**

## Office Closures

The Council office will be closed on the following dates:

April 14, 2006 for Good Friday

April 17, 2006 for Easter Monday

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# Advertising Must Contain the Name of the Related Brokerage

The Council continues to receive complaints from both consumers and licensees with respect to licensee advertising. These complaints fall into two main types: 1) failure to include the name of the related brokerage on advertising and, 2) the name of the related brokerage is too small in relation to the rest of the advertisement.

Licensees should be aware that section 4-6(2) of the Council Rules requires the **name of the related brokerage (e.g. ABC Realty Surrey Ltd.) to be displayed on all advertising. It also must be displayed in a prominent and easily readable way.** Tiny and hard to read font sizes at the bottom of an advertisement are not acceptable to the Council.

Licensees should also be aware that section 57(1) of the *Real Estate Services Act* allows the Council to impose administrative penalties on licensees who fail to adhere to the Council Rules. In that regard, in accordance with section 2-23 of the Council Rules, the administrative penalties for a

contravention of a rule specified by regulation under section 56(1) [*rules subject to administrative penalties*] of the Act are as follows:

- (a) \$250 for a first contravention;
- (b) \$500 for a second contravention;
- (c) \$1000 for a third or subsequent contravention.

Full details of the Administrative Penalties Policy Statement #1 were outlined in the August 2005 *Report from Council* newsletter. The Policy Statement is also posted on the Council's website at [www.recbc.ca](http://www.recbc.ca).

Section 4-6(2) of the Council Rules applies to all advertising materials including, but not limited to, the following: TV ads and/or channels, all websites and web pages, email (and any other on-line identification, representation, promotion or solicitation), bus shelters and bus stop benches, newspaper ads, yellow pages ads, brochures, flyers, sponsorship materials and signs, billboards, stadium/arena signs, automobile

signs, bus advertising, business cards, or promotional material of any sort. In the case of radio and audio only advertising, the name of the related brokerage must be clearly stated.

In assessing compliance with section 4-6(2), the Council will give consideration to the prominence of the brokerage's name in relation to the rest of the advertisement and the relative ease with which a consumer can determine who the brokerage is. It is further recommended that the brokerage's phone number be included.

Licensees are ultimately responsible for all of their advertising and must proofread any advertisement to ensure it complies with the Council Rules. It is not acceptable to supply information to a newspaper or other periodical without proofreading the final advertisement.

Your cooperation in ensuring all advertising meets the requirements of the Council Rules is appreciated.

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## Advertising on the Internet

The Council is noticing an increasing number of licensees who create website addresses that imply that the individual is licensed as a brokerage when, in fact, they are not licensed as such with the Council.

An example of this is an individual licensee who is licensed with ABC Realty Ltd. and creates a website called [www.AdamSmithRealty.com](http://www.AdamSmithRealty.com). This website address is not permissible unless Adam Smith is duly licensed with the Council as a brokerage called Adam Smith Realty.

Further, licensees must also ensure that, in all cases and on each page of their website, the name of the brokerage is displayed in a prominent and easily readable way.

Licensees with questions about their advertising may contact the Council office at 604-683-9664, toll-free 1-877-683-9664 or email [info@recbc.ca](mailto:info@recbc.ca).



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## Surveys and Title Insurance

Lending institutions may require that a survey certificate be presented to them prior to the approval of the property for financing. The purpose of the survey is to formally establish the boundaries of the property and to ensure that all buildings are located within those boundaries. Lending institutions may ask for either a building location survey, which establishes where a building is located on a property, or a monumental survey, which establishes the actual boundaries of a property.

In the purchase of a property, where the boundaries or property lines, set backs, or locations of all structures on a property in relation to the boundaries are material to the buyer's intended use or development plans for the property, it is important that licensees advise their clients that it is prudent to make their offer subject to the buyer acquiring a recent survey certificate, even if their lender does not require a survey. If a recent survey

certificate does not exist, a prudent buyer should undertake to have the property surveyed, prior to the removal of the subject condition.

Although fairly common in the United States, title insurance is a relatively new consideration for real estate transactions in British Columbia. This is likely because BC's Land Title registration system is regarded as being one of the most definitive in North America. With only a few exceptions, the BC Land Title registration system guarantees the title to a property.

Title insurance offers coverage for lenders or buyers against a loss as a result of acquiring a property, or an interest in a property, with a defective title. A defect could be characterized as the existence of an interest in a particular property that was unknown at the time of the transaction. In essence, title insurance covers against losses sustained due to the condition

of the title being other than as registered with the Land Title Office.

While title insurance is most often used by commercial real estate lenders and purchasers, there may also be certain situations where it could be useful to a buyer of a residential property, particularly as the scope of the title insurance coverage expands. In addition, some lending institutions may require title insurance as a condition of approving a mortgage loan secured by residential property.

Licensees wishing to learn more about title insurance and its application to residential and commercial transactions are encouraged to refer to the BC Real Estate Association's three-part *Legally Speaking* series (Articles 321, 322 and 323) that deals with this topic. Past issues of *Legally Speaking* are available on the Association's page on the REALTOR Link™ website.

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## Warning About Identity Theft

Last month, a brokerage in the Greater Vancouver area was burglarized. What was surprising about this break-in was that the thieves did not focus on the expensive computer equipment at the brokerage. Instead, the thieves stole nearly 200 current transaction files, as well as the bank records and credit card files of the brokerage.

This robbery underscores the value of personal information in a time of increased identity theft. Armed with the personal client information contained in the brokerage's transaction files, thieves could cause significant financial harm to the brokerage and its clients. In this case, the managing broker has taken

several steps to notify all cooperating agents as well as the individual buyers and sellers affected by the theft. The unfortunate part is that no-one knows exactly how the thieves intend to use the information or the potential harm it may cause.

The *Personal Information Protection Act* requires all brokerages (and individual licensees) to protect personal information by making reasonable security arrangements to prevent unauthorized access, collection, use, disclosure, copying, modification or disposal or similar risks. This would include implementing reasonable physical and technical measures to safeguard personal

information. While brokerages may not be able to prevent break-ins, brokerages should, at a minimum, lock all transaction files in secured storage cabinets and include reasonable security features on computer equipment to prevent unauthorized access and theft.

For further information about brokerage responsibilities under the *Personal Information Protection Act*, licensees are encouraged to visit the website for the Information Policy and Privacy Branch of the Ministry of Labour and Citizens Services at [www.msar.gov.bc.ca/privacyaccess/](http://www.msar.gov.bc.ca/privacyaccess/).

# Disciplinary Decisions

Since the December 2005 *Report from Council* newsletter, the following actions have been taken as a result of disciplinary hearings and Consent Orders conducted by the Council.

➤ **Complaint:** Contravention of section 15, section 17, section 23(2), and section 31(1) of the *Real Estate Act*, and section 9.12, section 12.01 and 12.01(b) of Regulation 75/61 under the *Real Estate Act* /Failure to keep proper books, records and accounts; Improperly withdrew funds; Failure to remit interest; Misconduct and Negligence

■ **Issue:** Cypress Properties Ltd., Vancouver, contravened

(i) section 15 of the *Real Estate Act* and 12.01 of Regulation 75/61 under the *Real Estate Act* in that it failed to keep proper books, records and accounts,

(ii) section 17 of the *Real Estate Act* in that it improperly withdrew funds held in a pooled trust account without authorization, thereby causing a trust shortage, and

(iii) section 23(2) of the *Real Estate Act* in that it failed to remit interest paid on funds in the brokerage's trust account to the Real Estate Foundation in a timely manner.

■ **Issue:** Michael James Henson, currently unlicensed, who while licensed as the managing broker of Cypress Properties Ltd., Vancouver,

(i) contravened section 31(1) of the *Real Estate Act* by removing funds from trust without the authority of his clients and deposited the funds to the credit of the brokerage, contrary to section 17 of the Act,

(ii) miscondacted himself within the meaning of section 31(1) of the *Real Estate Act* in that he permitted financial statements to be produced that were misleading, contrary to section 12.01(b) of Regulation 75/61 under the *Real Estate Act*,

(iii) was negligent within the meaning of

section 31(1) of the *Real Estate Act* in that he (iv) contravened section 15 of the *Real Estate Act* and section 12.01 of Regulation 75/61 under the *Real Estate Act* in that he failed to ensure the brokerage kept such proper and up to date books, records and accounts as required, and

(v) contravened section 23(2) of the *Real Estate Act* in that he failed to ensure that the brokerage remitted interest paid on funds in the brokerage's trust accounts to the Real Estate Foundation in a timely manner.

✍ **Penalty:** Cypress Properties Ltd. was reprimanded for the contraventions described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Michael James Henson on behalf of Cypress Properties Ltd. and a Consent Order was issued.

✍ **Penalty:** Michael James Henson will not make an application for licensing as a representative for a period of two years or until after November 8, 2007 and that application will be subject to a qualification hearing. Further, he will not make an application for licensing as a managing broker for a period of seven years or until after November 8, 2012 and that an application in this regard will be subject to a qualification hearing as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Michael James Henson, and a Consent Order was issued. In addition, Cypress Properties Ltd. and Michael James Henson are jointly and severally liable for enforcement expenses of \$2,000.00 which includes \$1,162.50 in audit costs.

➤ **Complaint:** Contravention of section 2-19 of the Council Rules and section 35 of the *Real Estate Services Act*/Professional Misconduct

■ **Issue:** Chrystale Ashworth, managing broker, Master Key Realty Ltd., Chilliwack, contravened section 2-19 of the Council Rules under the *Real Estate Services Act* in that she failed to promptly respond or at all to the Council's written inquiries, and that contravention constituted professional misconduct within the meaning of section 35(a) of the *Real Estate Services Act*.

✍ **Penalty:** Chrystale Ashworth's licence as a managing broker, associate broker or representative was suspended for thirty days from December 21, 2005 to January 19, 2006 (inclusive). In addition, as a condition of continued licensing, Ms. Ashworth was required to pay a fine to the Real Estate Council in the amount of \$5,000.00 by January 19, 2006 (which sum was originally required to be paid by December 31, 2005), and enforcement expenses in the sum of \$1,621.30 by January 19, 2006 (which sum was originally required to be paid by December 30, 2005). Accordingly, her licence shall continue to be suspended until such time as the fine and enforcement expenses are paid in full. Further, as a condition of continued licensing, Ms. Ashworth must successfully complete Chapter 2 (Mandatory Requirements Under the *Real Estate Services Act*) of the Brokers Licensing Course. Finally, Ms. Ashworth shall provide a substantive response to any requests for information by the Real Estate Council within thirty days of the Council making such a request.

*It should be noted that Ms. Ashworth and Master Key Realty Ltd. were the subjects of another disciplinary hearing held on several dates in 2004 and 2005. The Council's hearing decision was appealed by both the Superintendent of Real Estate and Ms. Ashworth. In its decision dated December 16, 2005, the Financial Services Tribunal ruled that the stay of the penalty*

*imposed by the Council in its decision, be lifted pending a ruling by the Tribunal in that appeal. As a result, Ms. Ashworth's licence as a managing broker has been suspended for a period of one (1) year from December 21, 2005 to December 20, 2006. Further details of this disciplinary decision will be made available once the appeal has been heard.*

*Please note that should Ms. Ashworth satisfy the disciplinary requirements detailed in the penalty above, she would then be eligible for licensing as a representative or an associate broker.*

➤ **Complaint:** Contravention of section 20 of the *Real Estate Services Act*/ Professional Misconduct

■ **Issue:** Darren Aun, representative, Westmar Realty Ltd. dba Macdonald Realty Westmar, Richmond who, while licensed with Stern Realty (1994) Ltd. dba Coldwell Banker Premier Realty, Vancouver, contravened section 20 of the *Real Estate Services Act* and that contravention constituted professional misconduct when he provided real estate services at a time when his licence was suspended.

✍ **Penalty:** Darren Aun's licence was suspended for thirty days (30) days from January 18, 2006 to February 16, 2006 (inclusive) for professional misconduct as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Darren Aun, and a Consent Order was issued. In addition, as a condition of continued licensing, he was required to pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 9.12 of Regulation 75/61 under the former *Real Estate Act*, section 35(a) of the *Real Estate Services Act*, section 2-19 of the

Council Rules/Negligence and Professional Misconduct

■ **Issue:** Irka (Irene) Oksana Gasser, representative, Prudential Kelowna Properties, Kelowna, was

(a) negligent within the meaning of section 9.12 of Regulation 75/61 under the former *Real Estate Act* in that she, during the course of the sale of her principal residence,

(i) permitted drapes on ten windows of the master bedroom and ensuite and two curtain rods to be removed without advising the buyer or her agent;

(ii) permitted a trampoline to be removed from the same property without advising the buyer or her agent;

(b) contravened section 2-19 of the Council Rules in that she failed to promptly respond to Council inquiries concerning the complaint;

(c) committed professional misconduct (contravention of the Act, Regulations and/or Council Rules) within the meaning of section 35(a) of the *Real Estate Services Act* by contravening section 2-19 of the Council Rules.

✍ **Penalty:** Irka (Irene) Oksana Gasser was suspended for thirty (30) days from December 21, 2005 to January 19, 2006 (inclusive) for the contraventions described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Irka (Irene) Oksana Gasser, and a Consent Order was issued. In addition, as a condition of continued licensing, she is required to successfully complete Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and pay enforcement expenses to the Council in the amount of \$500.00. She is also required to write a letter of apology to the buyers and return the drapes to them.

➤ **Complaint:** Contravention of section 9.12 of Regulation 75/61 under the *Real*

*Estate Act*/Negligence

■ **Issue:** Darlene Carolyn Dunnett, representative, Angell, Hasman & Associates, West Vancouver, contravened section 9.12 of Regulation 75/61 under the *Real Estate Act* in that she

(a) failed to ensure that buyers were provided with adequate information concerning the details of a home warranty and, in particular, a Property Disclosure Statement, prior to removing the subjects to the purchase; and

(b) failed to adhere to the duties of loyalty and confidentiality to the buyers by providing a Statutory Declaration to the seller's lawyer.

✍ **Penalty:** Darlene Dunnett's licence was suspended for fourteen (14) days from December 21, 2005 to January 3, 2006 (inclusive) for negligence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Darlene Dunnett, and a Consent Order was issued. As a condition of continued licensing, she is required to successfully complete Chapter 2 (*Real Estate Services Act*) and Chapter 12 (Law of Agency) of the Real Estate Trading Services Licensing Course, to enroll in and attend the first available "Legal Update" course and to pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of sections 3(1) and 15(1) of the *Real Estate Act* and sections 9.12, 9.16 and section 12.01 of Regulation 75/61 under the *Real Estate Act*/ Failure to keep proper books, records and accounts; Failure to have a managing broker in regular attendance and Negligence

■ **Issue:** Multiple Realty Ltd., Vancouver, contravened section 12.01 of Regulation 75/61 under the *Real Estate Act* in that it

(i) failed to keep proper and up to date books, records and accounts for all property management transactions in accordance with

section 15(1) of the *Real Estate Act* and section 12-01 of Regulation 75/61 under the *Real Estate Act* and

(ii) failed to have a managing broker in regular attendance and in active charge of the property management business of the brokerage, contrary to section 9.16 of Regulation 75/61 under the *Real Estate Act*.

■ **Issue:** John Shiong-Chow Ma, managing broker, Multiple Realty Ltd., Vancouver, was negligent within the meaning of section 9.12 of Regulation 75/61 of the *Real Estate Act* in that he

(i) permitted Mr. Young to conduct property management services independent of his employing brokerage;

(ii) failed to be in regular attendance and in active charge of the property management business of the brokerage, contrary to section 9.16 of Regulation 75/61 under the *Real Estate Act*; and

(iii) failed to ensure the brokerage kept proper and up to date books, records and accounts for all property management transactions in accordance with section 15(1) of the *Real Estate Act* and section 12.01 of Regulation 75/61 under the *Real Estate Act*.

■ **Issue:** Chiu Goun (Adam) Young, representative, Multiple Realty Ltd., Vancouver, was negligent within the meaning of section 9.12 of Regulation 75/61 of the *Real Estate Act* in that he

(i) held himself out as a managing broker without being the holder of a valid and subsisting managing broker's licence contrary to section 3(1) of the *Real Estate Act* and

(ii) conducted property management services independent of his employing brokerage, Multiple Realty Ltd.

✍ **Penalty:** Multiple Realty Ltd. was reprimanded.

✍ **Penalty:** John Shiong-Choy Ma's

licence as a managing broker was suspended for seven (7) days from January 11, 2006 to January 17, 2006 (inclusive). He was, however, immediately eligible to be licensed as an associate broker. As a condition of continued licensing, he must successfully complete Chapter 15 (The Law and Property Management) and Chapter 20 (Controls, Systems and Forms) of the Property Management Supplemental Licensing Course.

✍ **Penalty:** Chiu Goun (Adam) Young was suspended for fourteen (14) days from January 11, 2006 to January 24, 2006 (inclusive). As a condition of continued licensing, he must complete the Property Management Supplemental Licensing Course and successfully pass the examination.

Further, John Shiong-Choy Ma and Chiu Goun (Adam) Young are jointly and severally liable for enforcement expenses to be paid to the Council in the amount of \$4,710.20.

➤ **Complaint:** Contravention of section 35(1)(d) under the *Real Estate Services Act*/ Professional Misconduct/Incompetence

■ **Issue:** Irene Chi-Hsuan Yung, associate broker, RGD Holdings Inc. dba RGD Commercial Realty Advisors, Vancouver, who, while licensed with Royal LePage Commercial Inc., Vancouver, demonstrated incompetence and thereby committed professional misconduct within the meaning of section 35(1)(d) under the *Real Estate Services Act* in that she failed to advise the landlord or the landlord's representatives that the deposit, which was due on or about March 16, 2005, had not been received in accordance with the terms of the Offer to Lease.

✍ **Penalty:** Ms. Yung was suspended for seven (7) days from December 28, 2005 to January 3, 2006 (inclusive) for incompetence as described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real

Estate Council and Ms. Yung, and a Consent Order was issued. In addition, as a condition of continued licensing, she is required to successfully complete Chapter 2 (*Real Estate Services Act*), Chapter 5 (The Professional Liability of Real Estate Licensees) and Chapter 10 (The Law of Contract) of the Real Estate Trading Services Licensing Course and to pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 9.12 of Regulation 75/61 under the former *Real Estate Act*/Negligence

■ **Issue:** Edward Winston Erickson, representative, Homelife Peninsula Property Management, Surrey, was negligent within the meaning of section 9.12 of Regulation 75/61 under the Act in that he:

(i) represented in the listing information that the dimensions of a property were larger than the actual dimensions,

(ii) failed to ensure that the square footage of the lot was accurate.

✍ **Penalty:** Edward Winston Erickson was suspended for seven (7) days from February 8, 2006 to February 14, 2006 (inclusive) for the contraventions described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Edward Winston Erickson, and a Consent Order was issued. In addition, as a condition of continued licensing, he is required to successfully complete Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 9.12 of Regulation 75/61 under the *Real Estate Act*/Negligence

■ **Issue:** Dale Francis Courville, representative, Homelife Benchmark Realty



Corp., Surrey, was negligent within the meaning of section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he failed to ascertain or verify the actual square footage of the subject property.

 **Penalty:** Dale Francis Courville was reprimanded for the contravention described above after an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was entered into between the Real Estate Council and Dale Francis Courville, and a Consent Order was issued. As a condition of continued licensing, he is required to successfully complete Chapter 2 (*Real Estate Services Act*) of the Real Estate Trading Services Licensing Course and pay enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 9.12 of Regulation 75/61 under the *Real Estate Act*/Negligence

■ **Issue:** David Winston Toothill, Representative, Fernie Real Estate Company Ltd., Fernie who, while licensed with Elk Valley Realty Ltd. dba Re/Max Elk Valley Realty, Fernie, contravened section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he

(a) permitted the seller to enter into a Contract of Purchase and Sale to a second buyer when the seller was already committed under an existing Contract of Purchase and Sale; and

(b) failed to ensure the acceptance of the offer from the second buyer was conditional on the seller being released from any contractual obligation to the first buyer.

■ **Issue:** Sharon Esther Taylor, Representative, Elk Valley Realty Ltd. dba Re/

Max Elk Valley Realty Ltd., Fernie, contravened section 9.12 of Regulation 75/61 under the *Real Estate Act* in that she

(a) permitted the seller to enter into a Contract of Purchase and Sale to a second buyer when the seller was already committed under an existing Contract of Purchase and Sale;

(b) failed to ensure the acceptance of the offer from the second buyer was conditional on the seller being released from any contractual obligation to the first buyer; and

(c) failed to ensure she had the seller's authority to disclose that the seller would accept no less than a certain amount when she advised a licensee representing another buyer that the seller had not, in the past, considered an offer at under the specified amount.

■ **Issue:** Peter Anthony Sterling, Representative, Elk Valley Realty Ltd. dba Re/Max Elk Valley Realty Ltd., Fernie, contravened section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he failed to ensure that he monitored the transaction so that the faxed acceptance of the seller's counter-offer was provided to the seller's representatives upon receipt.

 **Penalty:** David Toothill, Sharon Taylor and Peter Sterling were reprimanded for negligence as described above after Agreed Statements of Facts, Proposed Acceptance of Findings and Waivers were entered into between the Real Estate Council and David Toothill, Sharon Taylor and Peter Sterling, and Consent Orders were issued. In addition, as a condition of continued licensing, they must each successfully complete Chapter 5 (The Professional Liability of Real Estate Licensees) of the Real Estate Trading Services Licensing Course and each to pay

enforcement expenses to the Council in the amount of \$500.00.

➤ **Complaint:** Contravention of section 9.12 of Regulation 75/61 under the *Real Estate Act*/Negligence

■ **Issue:** Jacqueline Nystrom, representative, Crossroads Realty Ltd. dba Royal LePage Crossroads Realty, Ashcroft, contravened section 9.12 of Regulation 75/61 under the *Real Estate Act* in that she failed to clarify, after she learned that Mr. Webster had advised another licensee in error that there was an accepted offer on the property, that her clients' offer was pending and that any offer by the other licensee's client would not be in a back-up position.

■ **Issue:** Lawrence Stephenson Webster, Crossroads Realty Ltd. dba Royal LePage Crossroads Realty, Ashcroft, contravened section 9.12 of Regulation 75/61 under the *Real Estate Act* in that he failed to clarify, after he had advised another licensee that there was an accepted offer on the property, that the offer was pending and that any offer by that licensee's client would not be in a back-up position

 **Penalty:** Jacqueline Nystrom and Lawrence Stephenson Webster were reprimanded for negligence as described above after Agreed Statements of Facts, Proposed Acceptance of Findings and Waivers were entered into between the Real Estate Council, Jacqueline Nystrom and Lawrence Stephenson Webster, and Consent Orders were issued. In addition, as a condition of continued licensing, they were jointly and severally liable to pay enforcement expenses to the Council in the amount of \$500.00.