

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

AND

IN THE MATTER OF

KARL MARCUS LEONG
(052893)

AND

KARL LEONG PERSONAL REAL ESTATE CORPORATION
(052893PC)

CONSENT ORDER

RESPONDENTS: Karl Marcus Leong, Representative, Camosun Properties Ltd. dba
RE/MAX Camosun

Karl Leong Personal Real Estate Corporation

DATE OF CONSENT ORDER: 10 July 2020

CONSENT ORDER REVIEW COMMITTEE: L. Hrycan
M. Chan
C. Ludgate

COUNSEL: Meredith MacGregor, Legal Counsel for the Real Estate Council of BC

PROCEEDINGS:

On 10 July 2020, the Consent Order Review Committee (“CORC”) resolved to accept the Consent Order Proposal (the “Proposal”) submitted by Karl Marcus Leong (“Mr. Leong”), on his own behalf and on behalf of Karl Leong Personal Real Estate Corporation (“KL PREC”).

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Mr. Leong, on his own behalf and on behalf of KL PREC.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and in particular having found that Mr. Leong and KL PREC committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* (“RESA”) and sections 3-4 and 4-7 of the Rules made under the RESA, pursuant to section 43 of the RESA the CORC orders that:

1. Mr. Leong and KL PREC be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$5,000 within three (3) months from the date of this Order.
2. Mr. Leong, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia in the time period as directed by the Council.
3. Mr. Leong and KL PREC be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,500 within two (2) months from the date of this Order.

If Mr. Leong and/or KL PREC fails to comply with any term of this Order, the Council may suspend or cancel their licences without further notice to them, pursuant to sections 43(3) and 43(4) of the RESA.

Dated this 10 day of July 2020 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Len Hrycan”

Len Hrycan
Consent Order Review Committee

Attch.

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
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IN THE MATTER OF

**KARL MARCUS LEONG
(052893)**

AND

**KARL LEONG PERSONAL REAL ESTATE CORPORATION
(052893PC)**

**CONSENT ORDER PROPOSAL BY KARL MARCUS LEONG AND
KARL LEONG PERSONAL REAL ESTATE CORPORATION**

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Karl Marcus Leong ("Mr. Leong") on his own behalf and on behalf of Karl Leong Personal Real Estate Corporation ("KL PREC") to the Consent Order Review Committee ("CORC") of the Real Estate Council of BC (the "Council") pursuant to section 41 of the *Real Estate Services Act* ("RESA").

For the purposes of the Proposal, Mr. Leong on his own behalf and on behalf of KL PREC and the Council have agreed upon the following facts:

1. Mr. Leong (052893) has been licensed as a trading services representative and a rental property management representative since 1985.

Brokerage	License Level	License Category	Start Date	End Date
<u>Camosun Properties Ltd.</u> (X000493)	Representative	Trading, Rental	1995/05/17	Present
<u>F.W.C. The Land Company Inc.</u> (Vic) (X021005)	Representative	Trading, Rental	1990/05/18	1995/05/17
<u>Camosun Properties Ltd.</u> (X000493)	Representative	Trading, Rental	1988/07/19	1990/05/18

<u>Century 21 Western Homes (1987) Ltd. (X017088)</u>	Representative	Trading, Rental	1987/06/30	1988/07/19
<u>Century 21 Western Homes Ltd. (X000697)</u>	Representative	Trading, Rental	1985/08/14	1987/06/29
Unlicensed	N/A	N/A	1985/07/13	1985/08/13
<u>Century 21- Tradewind Realty Ltd. (X000681)</u>	Representative	Trading, Rental	1985/02/04	1985/07/12

2. Mr. Leong became licensed as KL PREC on January 9, 2009.
3. Mr. Leong was at all relevant times licensed as a trading services representative and rental property management representative with Camosun Properties Ltd. dba Re/Max Camosun and a member of "The Preferred Homes Team".
4. This matter concerns Mr. Leong's conduct while acting as the representative of the sellers (the "Sellers") of the property located at XX XXXX Street, Victoria (the "Property") in and around April to July of 2014.
5. The Property is one of three strata units in a renovated heritage house. The Property is unique in that it includes the entire 2nd floor of the main heritage house and the second floor of the detached garage building (the "Accessory Building"). The ground floor of the Accessory Building is a limited common property garage.
6. The buyers of the Property (the "Complainants"), represented in the purchase of the Property by Mr. XXXXX XXXXXXXX, complained to the Office of the Superintendent of Real Estate ("OSRE") regarding the conduct of both Mr. Leong and Mr. XXXXXXXX.
7. Mr. XXXXXXXX is now deceased.
8. On or about April 28, 2014, the Property was listed for sale with a list price of \$649,000. The listing expiry date was August 1, 2014.
9. The second floor of the Accessory Building was furnished with a bed and some exercise equipment. It was used by the Sellers as a guest bedroom.
10. The original MLS® information sheet (the "Original MLS® Listing") indicated, multiple times throughout the listing, that the Property had two bedrooms. One of the indicated bedrooms was located in the Accessory Building with a roughed-in bathroom. The Original MLS® Listing set out the following in the remarks section:

“It features a unique layout with a separate bedroom and roughed in bathroom above a detached garage, ideal as a studio or guest bedroom.”

11. In early July of 2014, the Sellers reduced the listing price of the Property to \$624,000. Mr. Leong updated the Original MLS® Listing to reflect the lower listing price.
12. On or about July 25, 2014, Mr. Leong further amended the Original MLS® Listing by removing the reference to a roughed-in bathroom but otherwise the remarks section from the Original MLS® Listing remained.
13. Mr. Leong provided the Complainants with a floor plan for the Property that indicated that the second floor of the Accessory Building was a bedroom. A company hired by Mr. Leong created the floor plan for marketing purposes.
14. On or about July 28, 2014, the Complainants entered a contract to purchase the Property for a purchase price of \$624,000 (the “Contract”).
15. On or about August 5, 2014, the Complainants removed the subjects and the Contract was firm.
16. On or about October 1, 2014, the Contract completed and the Complainants took possession of the Property.
17. The Complainants say that, after taking possession of the Property, they contacted the City of Victoria to inquire about obtaining a building permit to finish the bathroom in the Accessory Building. They were advised that, under the applicable zoning, the Complainants were prohibited from installing a bathroom in the Accessory Building and the Accessory Building could not be used as a bedroom.
18. On or about November 5, 2015, the Complainants hired an appraiser to perform a retroactive appraisal of the Property as at the date of the Contract. The appraisal was on the basis that the Property included only one bedroom and indicated a market value of \$581,000.
19. As of April 21, 2020, the Complainants continued to own the Property.
20. Mr. Leong says that, when preparing the Original MLS® Listing, he did not turn his mind to whether zoning bylaws prohibited the second floor of the Accessory Building to be used as a bedroom.
21. Mr. Leong says that he did not act to deceive or mislead the Complainants or any member of the public.
22. Mr. Leong accepts responsibility for his error and acknowledges that he should have taken further steps to confirm the accuracy of the listing information.
23. A Notice of Discipline Hearing was issued on February 4, 2019, an Amended Notice of Discipline Hearing was issued on February 12, 2020, and a Second Amended Notice of Discipline Hearing

was issued on June 10, 2020. These documents were served on Mr. Leong on his own behalf and on behalf of KL PREC.

24. Neither Mr. Leong nor KL PREC have disciplinary histories with the Council.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the Facts outlined herein, Mr. Leong and KL PREC propose the following findings of misconduct be made by the CORC:

1. Mr. Leong and KL PREC committed professional misconduct within the meaning of section 35(1)(a) of the RESA, when, in the capacity as the listing agent in the 2014 sale of the Property, he published advertising on the Multiple Listing Service® that stated the Property was a two-bedroom unit, when Mr. Leong knew, or reasonably ought to have known, that that was a false or misleading representation; in that, the Property only contained one bedroom and would need to be re-zoned as a legal two-bedroom unit, contrary to sections 3-4 [act honestly and with reasonable care and skill] and 4-7 [false or misleading advertising prohibited] of the Rules.

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct, Mr. Leong and KL PREC propose that the Notice of Discipline Hearing in this matter be resolved through the following Orders being made by the CORC, pursuant to section 43 of the RESA:

1. Mr. Leong and KL PREC be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$5,000 within three (3) months from the date of this Order.
2. Mr. Leong, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course as provided by the Sauder School of Business at the University of British Columbia in the time period as directed by the Council.
3. Mr. Leong and KL PREC be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,500 within two (2) months from the date of this Order.
4. If Mr. Leong and KL PREC fail to comply with any of the terms of this Order, a discipline committee may suspend or cancel their licences without further notice to them.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Leong and KL PREC acknowledge and understand that the Council may refer or decline to refer the Proposal to the CORC. If the Proposal is referred to the CORC, it may be accepted or rejected by the CORC. If the Proposal is rejected by the CORC, the matter may be referred to a disciplinary hearing.

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2. Mr. Leong and KL PREC acknowledge that they have been urged and given the opportunity to seek and obtain independent legal advice with respect to the disciplinary process, the allegations contained in the Notice of Discipline Hearing, and the execution and submission of the Proposal to the CORC; and, that they have obtained independent legal advice or have chosen not to do so, and that they are making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
 3. Mr. Leong and KL PREC acknowledge and are aware that the Council will publish the Proposal and the Consent Order or summaries thereof in its Report from Council newsletter, on the Council's website, on CanLII, a website for legal research and in such other places and by such other means as the Council in its sole discretion deems appropriate.
 4. Mr. Leong and KL PREC acknowledge and are aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the RESA, to appeal any decision of the Council, including any Consent Order made by the Council in relation to this matter.
 5. Mr. Leong and KL PREC hereby waive their right to appeal pursuant to section 54 of the RESA.
 6. If the Proposal is accepted and/or relied upon by the Council, Mr. Leong and KL PREC will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict Mr. Leong and KL PREC from making full answer and defence to any civil or criminal proceeding(s).
 7. The Proposal and its contents are made by Mr. Leong and KL PREC for the sole purpose of resolving the Notice of Discipline Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 41(5) of the RESA, the Proposal and its contents may not be used without the consent of Mr. Leong and KL PREC in any civil proceeding with respect to the matter.

"KARL MARCUS LEONG"

**KARL MARCUS LEONG on his own behalf and on
behalf of KARL LEONG PERSONAL REAL ESTATE
CORPORATION**

Dated __11th__ day of __June____, 2020