

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

MICHAEL RYAN MARFORI
(162741)

AND

MIKE MARFORI PERSONAL REAL ESTATE CORPORATION
(162741PC)

CONSENT ORDER

RESPONDENTS: Michael Ryan Marfori, Representative, Envoy Realty Ltd. dba Sutton Premier Realty
Mike Marfori Personal Real Estate Corporation

DATE OF REVIEW MEETING: September 18, 2019

DATE OF CONSENT ORDER: September 18, 2019

CONSENT ORDER REVIEW COMMITTEE: E. Duvall, Chair
M. Chan
M. Walker

ALSO PRESENT: E. Seeley, Chief Executive Officer
D. Avren, Vice President, Legal Services
Alex Bjornson, Legal Counsel for the Real Estate Council of BC

PROCEEDINGS:

On September 18, 2019, the Consent Order Review Committee ("CORC") resolved to accept the Consent Order Proposal (the "Proposal") submitted by Michael Ryan Marfori, on his own behalf and on behalf of Mike Marfori Personal Real Estate Corporation.

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Michael Ryan Marfori, on his own behalf and on behalf of Mike Marfori Personal Real Estate Corporation.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and in particular having found that Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* ("RESA"), pursuant to section 43 of the RESA the CORC orders that:

1. Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation jointly and severally pay a discipline penalty to the Council in the amount of \$2,000 within three (3) months from the date of this Order;
2. Michael Ryan Marfori, 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; and
3. Michael Ryan Marfori and Mike Marfori Personal Real Estate Corporation jointly and severally pay enforcement expenses to the Council in the amount of \$1,500 within two (2) months from the date of this Order.

If Michael Ryan Marfori and/or Mike Marfori Personal Real Estate Corporation 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 18th day of September, 2019, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

"Elain Duvall"

Elain Duvall, Chair
Consent Order Review Committee

Attch.

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
S.B.C. 2004, c. 42 as amended**

AND

IN THE MATTER OF

**MICHAEL RYAN MARFORI
(162741)**

AND

**MIKE MARFORI PERSONAL REAL ESTATE CORPORATION
(162741PC)**

**CONSENT ORDER PROPOSAL BY MICHAEL RYAN MARFORI AND
MIKE MARFORI PERSONAL REAL ESTATE CORPORATION**

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Mr. Marfori and Mike Marfori Personal Real Estate Corporation ("PREC") to the Consent Order Review Committee (the "CORC") of the Real Estate Council of British Columbia (the "Council") pursuant to section 41 of the *Real Estate Services Act* (the "RESA").

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

1. Mr. Marfori has been licensed as a trading representative since September 2011. Mike Marfori PREC has been licensed as a trading PREC since September 2014.
2. Mr. Marfori was at all relevant times licensed as a trading representative with Envoy Realty Ltd. dba Sutton Premier Realty.
3. On or about July 10, 2015, Mr. Marfori listed a property in Surrey for sale (the "Property"). The listing indicated that the Property was approximately one year old.
4. Prior to listing the Property for sale, the sellers had provided Mr. Marfori with an Owner Builder Authorization Form, which Mr. Marfori believed at the time was sufficient for listing the property.
5. According to the New Homes Registry on the BC Housing website, the Property is an "owner-built" home and was not permitted to be offered for sale at that time.
6. Pursuant to the *Homeowner Protection Act*, SBC 1998, c 31 ("HPA"), within the first ten (10) years after initial occupancy, the owner-builder or any subsequent owner is required to provide a disclosure notice known as an Owner Builder Disclosure Notice ("OBDN") to any prospective

purchasers. The OBDN must be provided prior to entering into a purchase and sale agreement. The OBDN informs prospective purchasers: (1) that the home was built under an "Owner-Builder Authorization"; (2) the date that the 10 year period started; and (3) whether there is a voluntary policy of home warranty insurance in place.

7. The Property was listed for sale within the 10 year period and therefore the sellers were required to provide an OBDN to a prospective purchaser pursuant to s. 21 of the HPA.
8. On or about July 12, 2015, the sellers and buyers entered into a contract of purchase and sale. The contract did not include a term relating to an OBDN or to home warranty.
9. The Homeowner Protection Office had not issued an OBDN from the HPO at the time of entering into the contract of purchase and sale.
10. On or about August 31, 2015, the transaction completed. The buyers had not received an OBDN at this time.
11. On the completion date, Mr. Marfori's managing broker informed Mr. Marfori that the OBDN had not been issued. Mr. Marfori informed the sellers, who contacted the HPO.
12. On or about September 11, 2015, the HPO provided an OBDN and Mr. Marfori provided it to the buyers' agent.
13. A Notice of Discipline Hearing was issued on July 3, 2019 and served on Mr. Marfori on his own behalf and on behalf of Mike Marfori PREC.
14. Mr. Marfori and Mike Marfori PREC have no prior discipline with the Council, although in January 2019 did enter into a consent order concerning an unrelated matter concerning activity in November 2015: *Marfori (Re)*, 2019 CanLII 26021 (BC REC).
15. The Council is unaware of any parallel proceedings.

PROPOSED FINDINGS OF MISCONDUCT

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

1. Mr. Marfori and Mike Marfori PREC committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that, they
 - a. failed to ensure that a disclosure notice was provided to a prospective purchaser as required under s. 21(2) of the HPA, contrary to s. 3-4 of the Rules and
 - b. listed a property when it was not permitted by BC Housing to be offered for sale, contrary to s. 3-4 of the Rules.

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct Mr. Marfori and Mike Marfori 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. Marfori and Mike Marfori PREC be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$2,000 within ninety (90) days of the date of this Order.
2. Mr. Marfori, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia within the time period directed by the Council.
3. Mr. Marfori and Mike Marfori PREC be jointly and severally liable to pay enforcement expenses to the Council in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.
4. If Mr. Marfori and Mike Marfori PREC fail to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Mr. Marfori and Mike Marfori PREC's licences without further notice to them.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Marfori and Mike Marfori 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.
2. Mr. Marfori and Mike Marfori PREC have been advised of and understand their right to obtain independent legal advice regarding the disciplinary process, including with respect to the execution and submission of the Proposal.
3. Mr. Marfori and Mike Marfori 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. Marfori and Mike Marfori 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. Marfori and Mike Marfori PREC hereby waive their right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Marfori and Mike Marfori 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. Marfori and Mike Marfori PREC in any civil proceeding with respect to the matter.

“Michael Ryan Marfori on his own behalf and on behalf of MIKE MARFORI PERSONAL REAL ESTATE CORPORATION”

MICHAEL RYAN MARFORI on his own behalf and on behalf of MIKE MARFORI PERSONAL REAL ESTATE CORPORATION

Dated 6th day of August, 2019