

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

**HARWINDER SINGH DIAL
(163791)**

AND

**HARWINDER DIAL PERSONAL REAL ESTATE CORPORATION
(163791PC)**

CONSENT ORDER

RESPONDENT: Harwinder Singh Dial, Representative, Gilco Real Estate Services Ltd. dba Gilco Real Estate Services

Harwinder Dial Personal Real Estate Corporation

DATE OF REVIEW MEETING: February 27, 2019

DATE OF CONSENT ORDER: February 27, 2019

CONSENT ORDER REVIEW COMMITTEE: E. Mignosa
B. Chisholm
L. Hrycan
D. Peerless

ALSO PRESENT: E. Duvall, Chair
E. Seeley, Executive Officer
D. Avren, Director, Legal Services
A. Bjornson, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On February 27, 2019, the Consent Order Review Committee (the "Committee") resolved to accept the Consent Order Proposal (the "Proposal") submitted by Harwinder Singh Dial, on his own behalf and on behalf of Harwinder Dial Personal Real Estate Corporation.

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Harwinder Singh Dial, on his own behalf and on behalf of Harwinder Dial Personal Real Estate Corporation.

NOW THEREFORE, the Committee having made the findings proposed in the attached Proposal, and in particular having found that Harwinder Singh Dial and Harwinder Dial Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Harwinder Singh Dial and Harwinder Dial Personal Real Estate Corporation each be reprimanded;
2. Harwinder Singh Dial and Harwinder Dial Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$3,500 within ninety (90) days from the date of this Order;
3. Harwinder Singh Dial, at his own expense, register for and successfully complete the Real Estate Trading Services Remedial Education Course, as provided by Sauder School of Business at the University of British Columbia in the time period as directed by the Council; and
4. Harwinder Singh Dial and Harwinder Dial Personal Real Estate Corporation 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 Order.

If Harwinder Singh Dial and Harwinder Dial Personal Real Estate Corporation fail 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 *Real Estate Services Act*.

Dated this 27th day of February, 2019, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Elana Mignosa”

Elana Mignosa
Consent Order Review Committee

Attch.

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(163791)**

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**HARWINDER DIAL PERSONAL REAL ESTATE CORPORATION
(163791PC)**

**CONSENT ORDER PROPOSAL BY HARWINDER SINGH DIAL
AND HARWINDER DIAL PERSONAL REAL ESTATE CORPORATION**

BACKGROUND AND FACTS

This Consent Order Proposal (the “Proposal”) is made by Harwinder Singh Dial (“Mr. Dial”) and Harwinder Dial Personal Real Estate Corporation to the Consent Order Review Committee (“CORA”) of the Real Estate Council of British Columbia (the “Council”) pursuant to section 41 of the *Real Estate Services Act* (“RESA”).

For the purposes of the Proposal, Mr. Dial and Harwinder Dial Personal Real Estate Corporation and the Council have agreed upon the following facts:

1. Mr. Dial (163791) has been licensed as a trading representative since April 12, 2012, with a brief unlicensed period in 2016.
2. Mr. Dial became licensed as Harwinder Dial Personal Real Estate Corporation on August 21, 2017.
3. Mr. Dial was at all relevant times licensed as a representative with Gilco Real Estate Trading Services Ltd.
4. On June 10, 2015, a residential property located on 94 Avenue in Surrey, BC (the “Property”) was listed for sale.
5. Mr. Dial acted as the buyer’s agent in connection with the purchase of the Property.
6. According to the New Homes Registry on the BC Housing website, the Property is an “owner-built” home.

7. The owner builder, or any subsequent owner, of an owner-built home must provide an Owner Builder Disclosure Notice ("OBDN") to any potential buyers within the first 10 years after initial occupancy, as required by the *Homeowner Protection Act* ("HPA"). The OBDN must be provided prior to entering into a contract of purchase and sale. It informs a buyer:
 - a. that the home was built under an "Owner Builder Authorization" issued by the Homeowner Protection Office;
 - b. when the 10-year period started; and
 - c. if there is a voluntary policy of home warranty insurance in place.
8. If the home is not covered by a policy of home warranty insurance, statutory protection is available to a potential buyer, pursuant to section 23 of the HPA.
9. The Property was listed for sale within the 10 year period and therefore the seller was required to provide an OBDN to a prospective purchaser prior to entering into a contract of purchase and sale.
10. On July 2, 2015, the sellers completed a Property Disclosure Statement ("PDS") for the Property. The seller answered "YES" to question: "Were these Premises constructed by an owner builder as defined in the *Homeowner Protection Act* with construction commencing or a building permit applied for after July 1, 1999? If so, attach required Owner Builder Declaration and Disclosure Notice". There was no OBDN attached to the PDS.
11. The seller answered "NO" to question: "Are these Premises covered by home warranty insurance under the *Homeowner's Protection Act*?"
12. On July 5, 2015, the sellers and the buyer entered into a contract of purchase and sale with a completion date of August 29, 2015 (the "Contract").
13. The buyer was not provided with an OBDN for the Property prior to entering into the Contract.
14. On July 17, 2015, BC Housing issued an OBDN for the Property.
15. The OBDN was provided to the buyer prior to subject removal.
16. The Property transaction closed and the Property transferred to the buyer.
17. A Notice of Discipline Hearing was issued on December 18, 2018 and served on Mr. Dial on his own behalf and on behalf of Harwinder Dial Personal Real Estate Corporation.
18. Mr. Dial and Harwinder Dial Personal Real Estate Corporation have not been subject to any prior discipline from the Council.
19. During the Council's investigation, Mr. Dial informed the Council that he received and provided an OBDN to his buyer client prior to the contract of purchase and sale being entered into. In fact, the OBDN for the Property was issued approximately two weeks after the contract of purchase and sale being entered into.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the facts outlined herein, Mr. Dial and Harwinder Dial Personal Real Estate Corporation propose the following findings of misconduct be made by the CORC:

1. Mr. Dial and Harwinder Dial Personal Real Estate Corporation committed professional misconduct within the meaning of section 35(1)(a) of RESA while acting as the buyer's agent in the sale of the Property, a new home built by an owner builder under the provisions of the HPA. In particular, Mr. Dial failed to act with reasonable care and skill when he did not ensure that the buyer received a copy of a disclosure notice prior to the buyer making an offer of purchase and sale, as required by section 21(2) of the HPA, that stated whether the Property was built under an Owner Builder Authorization and whether the Property was covered by a policy of home warranty insurance, contrary to section 3-4 of the Rules.
2. Mr. Dial and Harwinder Dial Personal Real Estate Corporation committed professional misconduct within the meaning of ss. 35(1)(a) and (e) when he failed to cooperate with a Council investigation, particularly by providing false information to Council during its investigation of this matter.

PROPOSED ORDERS

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

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Dial and Harwinder Dial Personal Real Estate Corporation 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. Dial and Harwinder Dial Personal Real Estate Corporation 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. Dial and Harwinder Dial Personal Real Estate Corporation 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. Dial and Harwinder Dial Personal Real Estate Corporation 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. Dial and Harwinder Dial Personal Real Estate Corporation hereby waive their right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Dial and Harwinder Dial Personal Real Estate Corporation 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. Dial and Harwinder Dial Personal Real Estate Corporation in any civil proceeding with respect to the matter.

"Harwinder Singh Dial"

**HARWINDER SINGH DIAL on his own behalf and
on behalf of HARWINDER DIAL PERSONAL REAL
ESTATE CORPORATION**

Dated 22nd day of February, 2019