

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

AND

IN THE MATTER OF
MICHELINE ERIKA STEPHENSON
(137977)

CONSENT ORDER

RESPONDENT: Micheline Erika Stephenson,
Representative, Westwin Realty Ltd. dba
Royal LePage Westwin Realty

DATE OF CONSENT ORDER: January 10, 2019

CONSENT ORDER REVIEW COMMITTEE: E. Mignosa
Y. Amlani
L. Hrycan
N. Nicholson

PROCEEDINGS:

WHEREAS on December 12, 2018, a Consent Order Proposal (COP) was submitted to a Consent Order Review Committee by Micheline Erika Stephenson but was not accepted by that Committee.

WHEREAS Micheline Erika Stephenson has submitted an amended COP.

WHEREAS the amended COP, a copy of which is attached hereto, has been executed by Micheline Erika Stephenson.

NOW THEREFORE, the Committee having made the findings proposed in the attached COP, and in particular having found that Micheline Erika Stephenson committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Micheline Erika Stephenson be reprimanded;
2. Micheline Erika Stephenson pay a discipline penalty to the Council in the amount of \$2,500 within ninety (90) days from the date of this Order;
3. Micheline Erika Stephenson, at her own expense, register for and successfully complete the Real Estate Trading Services Remedial 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. Micheline Erika Stephenson pay enforcement expenses to the Council in the amount of \$1,500 within sixty (60) days from the date of this Order.

If Micheline Erika Stephenson fails to comply with any term of this Order, the Council may suspend or cancel her licence without further notice to her, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 10th day of January, 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.

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

AND

IN THE MATTER OF

**MICHELINE ERIKA STEPHENSON
(137977)**

CONSENT ORDER PROPOSAL BY MICHELINE ERIKA STEPHENSON

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Micheline Erika Stephenson ("Ms. Stephenson") to the Consent Order Review Committee (CORC) 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, Ms. Stephenson and the Council have agreed upon the following facts:

1. Ms. Stephenson (137977) has been licensed as a representative since 2003.
2. Ms. Stephenson was at all relevant times licensed as a representative with Westwin Realty Ltd.
3. This matter arises out of Ms. Stephenson's failure to provide the strata bylaws to the buyer's agent with respect to a strata property she listed in 2017.
4. Ms. Stephenson acted for the seller as listing agent in the purchase and sale of a strata property in Kamloops, BC (the "Property").
5. On July 3, 2017, the Complainant made an offer to purchase the Property, which offer was accepted by the seller on July 4, 2017. The contract of purchase and sale (the "Contract") included the following terms: purchase price of \$2XX,000; deposit of \$X,000 due within 24 hours of acceptance; subject removal date of July 14, 2017; completion date of August 31, 2017; and possession date of September 1, 2017.
6. The seller's property disclosure statement dated May 7, 2017 (the "PDS") was enclosed as part of the Contract. Question 1M of the PDS asked: "Are you aware of any pet restrictions?" to which the seller answered "Yes."
7. An addendum to the Contract (the "Addendum"), dated July 3, 2017 and signed by the seller and the Complainant, added several subjects for the benefit of the buyer. Pursuant to the terms of the Addendum, the seller was required to provide the buyer numerous strata documents, including the strata corporation bylaws and rules.

8. On July 6, 2017, pursuant to the terms of the Addendum, Ms. Stephenson emailed the Complainant's agent, KP, a package of various strata documents including: Form B certificate; strata plans; minutes from various annual general meetings; engineering report; financial statements; and minutes from various council meetings. The strata bylaws and rules were not included.
9. Neither the Complainant nor her agent KP followed up with Ms. Stephenson regarding the missing strata bylaws and rules.
10. On July 12, 2017, Ms. Stephenson emailed KP advising her that there were no other minutes for the Property and that the package of strata documents that had been provided was "fully up to date".
11. On July 14, 2017, the Complainant removed the subjects.
12. On August 31, 2017, the transaction completed, and on or about September 1, 2017, the Complainant took possession of the Property.
13. The Complainant had purchased the Property as a residence for herself, her twin daughters (who were going to attend university in Kamloops), and their dog.
14. On or about September 3, 2017, the Complainant received a notice in the mail from the property manager containing a reminder that dogs were not allowed on the premises.
15. The Complainant contacted the property manager who advised that dogs were not allowed at the Property, and she read out the relevant sections of the strata bylaws and rules which state as follows:

Pets

4.15 An owner, tenant or occupant must not keep any pets on a strata lot other than the following:

 - (a) A reasonable number of fish or other small aquarium animals;
 - (b) A reasonable number of small caged mammals;
 - (c) Up to two (2) caged birds;
 - (d) One house cat.

4.16 All other pets are required to be approved by the strata council or property manager and it is the owner {sic} responsibility to ensure the strata council or property manager is aware of any changes in numbers and types of pets.
16. It was at this point that the Complainant realized that she had not received the strata bylaws and rules in advance of removing subjects, or at any time during the course of the purchase of the Property.
17. The Complainant alerted KP to the bylaw restricting dogs in the Property.
18. KP then requested Ms. Stephenson to provide her with a copy of the rules and bylaws for the Property.

19. On September 7, 2017, Ms. Stephenson emailed a copy of the strata bylaws and rules to KP, at which point KP confirmed to the Complainant that there was indeed a dog restriction at the Property.
20. The Complainant was not able to move into the Property and put it on the rental market in an effort to mitigate her losses. The Complainant's daughters deferred their year's attendance at university to the following year, as they were unable to find rental housing in Kamloops on such short notice.
21. A Notice of Discipline Hearing was issued on July 3, 2018 and served on Ms. Stephenson.
22. Ms. Stephenson has no prior discipline with the Council.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the facts outlined herein, Ms. Stephenson proposes the following findings of misconduct be made by the CORC:

1. Ms. Stephenson committed professional misconduct within the meaning of section 35(1)(a) of the RESA when acting as listing agent in the sale of a strata property in Kamloops, BC. In particular, pursuant to a contract of purchase and sale dated July 3, 2017 (the "Contract"):
 - a. she failed to provide the buyer's agent with a copy of the strata bylaws and rules pursuant to the terms of an addendum to the Contract, contrary to sections 3-3(b) and 3-4 of the Rules.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Ms. Stephenson proposes 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. Ms. Stephenson be reprimanded.
2. Ms. Stephenson pay a discipline penalty to the Council in the amount of \$2,500 within ninety (90) days of the date of the Order.
3. Ms. Stephenson, at her 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.
4. Ms. Stephenson pay enforcement expenses in the amount of \$1,500 within sixty (60) days from the date of the Order.
5. If Ms. Stephenson fails to comply with any of the terms of the Order, a Discipline Committee may suspend or cancel Ms. Stephenson's licence without further notice to her.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Ms. Stephenson acknowledges and understands 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. Ms. Stephenson acknowledges that she has 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 she has obtained independent legal advice or has 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. Ms. Stephenson acknowledges and is 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. Ms. Stephenson acknowledges and is 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. Ms. Stephenson hereby waives their right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Ms. Stephenson 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 Ms. Stephenson in any civil proceeding with respect to the matter.

"Micheline Erika Stephenson"

Micheline Erika Stephenson

Dated 7th day of January, 2019