

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

RAJWINDER KAUR GILL
(160051)

AND

RAJ GILL PERSONAL REAL ESTATE CORPORATION
(160051PC)

CONSENT ORDER

RESPONDENT:	Rajwinder Kaur Gill, Representative, Homelife Benchmark Realty Corp., while licensed with Century 21 Coastal Realty Ltd. Raj Gill Personal Real Estate Corporation, Representative, Homelife Benchmark Realty Corp., while licensed with Century 21 Coastal Realty Ltd.
DATE OF REVIEW MEETING:	July 11, 2018
DATE OF CONSENT ORDER:	July 11, 2018
CONSENT ORDER REVIEW COMMITTEE:	R. Holmes, Q.C. G. Martin R. Wong
ALSO PRESENT:	E. Seeley, Executive Officer Lisa Fong, Independent Legal Counsel Kristine Mactaggart Wright, Legal Counsel for the Real Estate Council

PROCEEDINGS:

On July 11, 2018, the Consent Order Review Committee ("Committee") resolved to accept the Consent Order Proposal ("COP") submitted by Rajwinder Kaur Gill, on her own behalf and on behalf of Raj Gill Personal Real Estate Corporation.

WHEREAS the COP, a copy of which is attached hereto, has been executed by Rajwinder Kaur Gill, on her own behalf and on behalf of Raj Gill Personal Real Estate Corporation.

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

1. Rajwinder Kaur Gill and Raj Gill Personal Real Estate Corporation each be reprimanded;
2. Rajwinder Kaur Gill and Raj Gill Personal Real Estate Corporation be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,500 within ninety (90) days from the date of this Order;
3. Rajwinder Kaur Gill, at her own expense, register for and successfully complete the course: *Homeowner Protection Act: Protect Your Sellers and Yourself*, offered by the Real Estate Board of Greater Vancouver, within the time period directed by the Council.
4. Rajwinder Kaur Gill and Raj Gill 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 Rajwinder Kaur Gill or Raj Gill 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 *Real Estate Services Act*.

Dated this 11th day of July, 2018, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



R. Holmes, Q.C., Chair
Consent Order Review Committee

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RAJWINDER KAUR GILL
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CONSENT ORDER PROPOSAL BY RAJWINDER KAUR GILL AND RAJ GILL PERSONAL REAL ESTATE CORPORATION

BACKGROUND AND FACTS

This Consent Order Proposal (the Proposal) is made by Rajwinder Kaur Gill (Ms. Gill) and Raj Gill Personal Real Estate Corporation (Raj Gill PREC) 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 Service Act* (RESA).

For the purposes of the Proposal, Ms. Gill on her own behalf and on behalf of Raj Gill PREC, and the Council have agreed upon the following facts:

1. Ms. Gill (160051) has been licensed as a representative since 2010.
2. Raj Gill PREC was licensed on December 15, 2015.
3. Ms. Gill was at all relevant times licensed as a representative with Century 21 Coastal Realty Ltd. (Century 21).
4. On April 23, 2015, the owners of the property located at 211XX 77B Avenue in Langley, BC (the Property) entered into a multiple listing contact with Century 21. Ms. Gill was the designated agent for the listing.
5. The listing for the Property indicated that the approximate year the Property was built was 2012.
6. The Property was owner built in approximately 2012 by the sellers of the Property (the Sellers).

7. On April 23, 2015 the Sellers completed a Property Disclosure Statement (PDS) and answered *no* to question 3S (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?) and yes to question 3T (Are these premises covered by home warranty insurance under the *Homeowner Protection Act*?).
8. According to the New Homes Registry on the BC Housing website, the Property is an owner-built home.
9. The *Homeowner Protection Act* (HPA), section 21(2)(a) states that an owner builder, and any subsequent purchaser of a new home built by an owner builder, before selling his or her new home during the purchase period, defined in the HPA and applicable to the Property when listed by Ms. Gill, must provide to a prospective purchaser a disclosure notice stating whether or not the home is covered by home warranty insurance.
10. On August 11, 2015, the buyers (the Buyers) entered into an Agreement to purchase the Property. The Contract of Purchase and Sale included subjects to: Property Disclosure Statement and Home Warranty – all to be removed by August 26, 2015.
11. On August 19, 2015, the Sellers applied for an Owner Builder Disclosure Notice (OBDN) with the Homeowner Protection Office.
12. On August 25, 2015, an Addendum was signed by all parties that stated the Buyer will receive all terms of the home warranty insurance coverage on or before completion date.
13. On August 26, 2015, the Buyers removed their subjects from their Contract of Purchase and Sale.
14. On August 27, 2015, the Homeowner Protection Office issued the OBDN. The OBDN gave notice the home was not covered by a policy of home warranty insurance, and was provided to the Buyers.
15. On October 2, 2015, the transaction completed, and on October 6, 2015, title changed on the Property.
16. On October 27, 2015, Ms. Gill provided staff with a copy of the MLS® Listing Contract and her statement. She stated that she “*did not ask for owner builder declaration form as the property was about 5 years old*” and that “*this was an overlook on [her] part*”. She further stated that she had requested that the Sellers obtain an OBDN at the time the offer was received.
17. The Buyers’ Agent, D.B., stated that “*at no time did we think that it [the Property] was Owner Builder*” and was under the impression the Property was built by a registered builder. D.B. relied on the Property Disclosure Statement. Ultimately, D.B. stated that the Buyers received a copy of the OBDN from the Sellers, and were satisfied.

18. A Notice of Discipline Hearing was issued on May 9, 2018 and served on Ms. Gill on her own behalf and on behalf of Raj Gill PREC.
19. Ms. Gill has no prior disciplinary history with the Council.

PROPOSED FINDINGS OF MISCONDUCT

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

1. you committed professional misconduct within the meaning of section 35(1)(a) of RESA in 2015 as the listing agent for the property located at 211XX 77B Avenue in Langley, a new home built by an owner builder under the provisions of the *Homeowners Protection Act* (the HPA), when you:
 - a. failed to ensure that a disclosure notice was provided to the prospective purchaser prior to the offer, as required by section 21(2) of the HPA, contrary to sections 3-3(a) [duty to act in the best interests of your clients] and 3-4 [duty to act with reasonable care and skill] of the Rules.

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct Ms. Gill and Raj Gill 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. Ms. Gill and Raj Gill PREC be reprimanded.
2. Ms. Gill and Raj Gill PREC be jointly and severally liable to pay a discipline penalty to the Council in the amount of \$1,500 within ninety (90) days of the date of this Order.
3. Ms. Gill, at her own expense, register for and successfully complete the course: *Homeowner Protection Act: Protect Your Sellers and Yourself-* offered by the Real Estate Board of Greater Vancouver, within the time period directed by the Council.
4. Ms. Gill and Raj Gill PREC be jointly and severally liable to pay enforcement expenses in the amount of \$1,500 within sixty (60) days from the date of this Consent Order.
5. If Ms. Gill and Raj Gill PREC fail to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Ms. Gill and Raj Gill's licences without further notice to them.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Ms. Gill and Raj Gill 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.

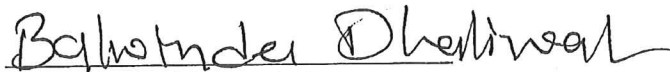
2. Ms. Gill and Raj Gill PREC have been advised of and understand their right to obtain independent legal advice regarding the disciplinary process, including with respect to the execution and submission of the Proposal.
3. Ms. Gill and Raj Gill PREC acknowledge and are aware that the Council will publish 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. Ms. Gill and Raj Gill 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. Ms. Gill and Raj Gill PREC hereby waive their right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Ms. Gill and Raj Gill 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 4.1(5) of the RESA, the Proposal and its contents may not be used without the consent of Ms. Gill and Raj Gill PREC in any civil proceeding with respect to the matter.



**RAJWINDER KAUR GILL on her own behalf
and on behalf of Raj Gill PREC**

Dated 14, day of June, 2018

Signature of Rajwinder Kaur Gill on her own
behalf and on behalf of Raj Gill PREC
witnessed on the above date by



Witness Name (Please Print)



Witness Signature