

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

KA FUNG (JULIANA) HO
(149859)

AND

BALDEV SINGH SANDHU
(072287)

CONSENT ORDER

RESPONDENT:	Ka Fung (Juliana) Ho, Representative, Royal Pacific (Kingsway) Ltd., Baldev Singh Sandhu, Representative, Royal Pacific (Kingsway) Ltd.
DATE OF REVIEW MEETING:	December 6, 2017
DATE OF CONSENT ORDER:	December 6, 2017
CONSENT ORDER REVIEW COMMITTEE:	T. O'Grady, Chair J. Daly S. Heath
ALSO PRESENT:	G. Thiele, Director, Legal Services Caroline Lee, Legal Counsel for the Real Estate Council
PROCEEDINGS:	

On December 6, 2017, the Consent Order Review Committee ("Committee") resolved to accept the Consent Order Proposal ("COP") submitted by Ka Fung (Juliana) Ho, and Baldev Singh Sandhu.

WHEREAS the COP, a copy of which is attached hereto, by Ka Fung (Juliana) Ho and Baldev Singh Sandhu.

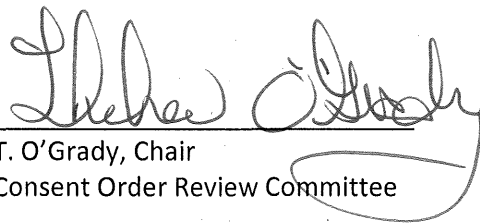
NOW THEREFORE, the Committee having made the findings proposed in the attached COP, and in particular having found that Ka Fung (Juliana) Ho and Baldev Singh Sandhu committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

1. Ka Fung (Juliana) Ho be reprimanded;
2. Baldev Singh Sandhu be reprimanded;
3. Ka Fung (Juliana) Ho, 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. Baldev Singh Sandhu, 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;
5. Ka Fung (Juliana) Ho pay enforcement expenses of this Consent Order to the Council in the amount \$1,500.00 within sixty (60) days from the date of this Order; and
6. Baldev Singh Sandhu pay enforcement expenses of this Consent Order to the Council in the amount \$1,500.00 within sixty (60) days from the date of this Order.

If Ka Fung (Juliana) Ho or Baldev Singh Sandhu 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 6th day of December, 2017, at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



T. O'Grady, Chair
Consent Order Review Committee

Atch.

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S.B.C. 2004, c. 42 as amended

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IN THE MATTER OF

KA FUNG (JULIANA) HO (149859)

AND

BALDEV SINGH SANDHU (072287)

CONSENT ORDER PROPOSAL BY KA FUNG (JULIANA) HO AND
BALDEV SINGH SANDHU

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Ka Fung (Juliana) Ho ("Ms. Ho") and Baldev Singh Sandhu ("Mr. Sandhu") 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. Ho, Mr. Sandhu, and the Council have agreed upon the following facts:

1. Ms. Ho (149859) has been licensed as a representative since 2006.
2. Mr. Sandhu (072287) has been licensed as a representative since 1988.
3. Ms. Ho and Mr. Sandhu were at all relevant times licensed as representatives with Royal Pacific Realty (Kingsway) Ltd.
4. On December 15, 2011, the owners (the "Sellers") of the property located at XXX East 64th Avenue in Vancouver (the "Property") entered into a multiple listing contract with Royal Pacific Realty Kingsway. Ms. Ho and Mr. Sandhu were the responsible representatives for the listing.
5. The listing for the Property indicated that the approximate year the Property was built was 2009 and describes the Property as "2 years new".
6. On December 15, 2011, the Sellers completed a Property Disclosure Statement ("PDS") and answered "no" to question 3.5 ("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 question 3.T (“Are these Premises covered by home warranty insurance under the *Homeowner Protection Act*?”).

7. According to the New Homes Registry on the BC Housing website, the Property is an “owner-built” home.
8. Under the *Homeowner Protection Act* (HPA), the owner builder or any subsequent owner is required to provide a disclosure notice known as an Owner Builder Disclosure Notice (“OBDN”) to any potential buyers within the first 10 years after occupancy. The OBDN must be provided prior to entering into a purchase and sale agreement. It informs potential buyers that the home was built under an “Owner Builder Authorization” issued by the Homeowner Protection Office (HPO), when the 10-year period started, and if there is a voluntary policy of home warranty insurance in place.
9. The date of first occupancy of the Property was April 21, 2009. As the Property was listed for sale within the first 10-year period, the Sellers were required to provide an OBDN to a prospective buyer prior to the sale of the Property.
10. On March 9, 2012, a contract of purchase and sale was entered into for the Property between the Sellers and a buyer (the “Buyer”). The sale completed on April 20, 2012. The Buyer did not receive an OBDN.
11. On June 5, 2015, the Property was listed for sale by the Buyer. An anonymous complaint was made to the Council that the Property was listed for sale in contravention of HPA requirements.
12. During the Council’s investigation of the anonymous complaint, the Council learned about the sale of the Property in 2012, which took place without providing the Buyer with an OBDN.
13. On October 13, 2015, the OBDN for the Property was issued.
14. Ms. Ho and Mr. Sandhu stated that they were aware the Sellers were owner-builders but that the Sellers were unable to provide a copy of the HPO registration. Ms. Ho and Mr. Sandhu thought that a home could not be built by an owner-builder without registering with the HPO, so they indicated “no” on the owner-builder question on the PDS until they received the HPO registration document.
15. Mr. [REDACTED] (“[REDACTED]”), managing broker at Royal Pacific Realty Corp., stated that Ms. Ho and Mr. Sandhu knew the Sellers had received an Owner Builder Authorization and they had confused this to mean the OBDN. [REDACTED] also stated that the general understanding of the industry at that time was that a property could be sold after the initial 12 month period if the owner-builder provided a 10-year personal warranty and that the requirement to give a buyer an OBDN was not well known by the industry at that time.
16. The 7th edition of the Professional Standards Manual (2010) has a section on owner-built homes which states the requirement to provide buyers with an OBDN within the first 10 years after occupancy.

17. Notices of Disciplinary Hearing were signed on August 25, 2017 for Ms. Ho and on August 23, 2017 for Mr. Sandhu and served on Ms. Ho and Mr. Sandhu on August 31, 2017.
18. Ms. Ho and Mr. Sandhu have no previous discipline history with the Council.

PROPOSED FINDINGS OF MISCONDUCT

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

1. Ms. Ho committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that:
 - (a) contrary to section 3-4 of the Rules, between on or about December 15, 2011 and April 20, 2012, when acting as the listing agent in the sale of the Property, a new home built by an owner builder under the provisions of the *Homeowner Protection Act*, she failed to ensure that a disclosure notice was provided to the Buyer prior to the offer, as required by s. 21(2) of that Act.

For the sole purposes of the Proposal and based on the Facts outlined herein, Mr. Sandhu proposes the following findings of misconduct be made by the CORC:

1. Mr. Sandhu committed professional misconduct within the meaning of section 35(1)(a) of the RESA in that:
 - (a) contrary to section 3-4 of the Rules, between on or about December 15, 2011 and April 20, 2012, when acting as the listing agent in the sale of the Property, a new home built by an owner builder under the provisions of the *Homeowner Protection Act*, he failed to ensure that a disclosure notice was provided to the Buyer prior to the offer, as required by s. 21(2) of that Act.

PROPOSED ORDERS

Based on the Facts herein and the Proposed Findings of Misconduct, Ms. Ho 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. Ho be reprimanded;
2. Ms. Ho, at her 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. Ms. Ho pay enforcement expenses in the amount of \$1,500 within sixty (60) days from the date of this Consent Order; and
4. If Ms. Ho fails to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Mr. Ho's licence without further notice to Ms. Ho.

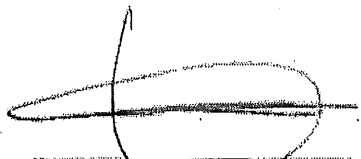
Based on the Facts herein and the Proposed Findings of Misconduct, Ms. Ho proposes that the Notice of Discipline Hearing in this matter be resolved through the following Orders being made by the CORC, pursuant to section 43 of the RESA:

1. Mr. Sandhu be reprimanded;
2. Mr. Sandhu, 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. Sandhu pay enforcement expenses in the amount of \$1,500 within sixty (60) days from the date of this Consent Order; and
4. If Mr. Sandhu fails to comply with any of the terms of this Order, a Discipline Committee may suspend or cancel Mr. Sandhu's licence without further notice to Mr. Sandhu.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Ms. Ho and Mr. Sandhu 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. Ho and Mr. Sandhu 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. Ho and Mr. Sandhu 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. Ho and Mr. Sandhu 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. Ho and Mr. Sandhu hereby waive their right to appeal pursuant to section 54 of the RESA.

6. The Proposal and its contents are made by Ms. Ho and Mr. Sandhu 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. Ho and Mr. Sandhu in any civil proceeding with respect to the matter.



Ka Fung (Julliana) Ho



Baldev Singh Sandhu

Dated 6 day of SEPT, 2017

Dated 6 day of SEPT, 2017

Signature of Ka Fung (Julliana) Ho witnessed on the above date by


Signature of Baldev Singh Sandhu witnessed on the above date by

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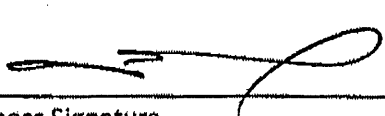
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Witness Name (Please Print)



Witness Signature



Witness Signature