

File # 14-344

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

**IN THE MATTER OF
ANDY CHI CHOR WONG
(083660)**

CONSENT ORDER

RESPONDENT: Andy Chi Chor Wong,
Representative, Fraseridge Realty Ltd.
dba Amex-Fraseridge Realty

DATE OF REVIEW MEETING: July 7, 2016

DATE OF CONSENT ORDER: July 21, 2016

CONSENT ORDER REVIEW COMMITTEE: D. Fimrite
C. Lindberg
S. Lynch, Chair

ALSO PRESENT: G. Thiele, Director, Legal Services
J. Millerd, Legal Counsel for the Real
Estate Council

PROCEEDINGS:

On July 7, 2016 the Consent Order Review Committee (the "Committee") resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver ("ASF") submitted by Andy Chi Chor Wong.

WHEREAS the ASF, a copy of which is attached hereto, has been executed by Andy Chi Chor Wong and on behalf of the Council;

NOW THEREFORE, the Committee having made the findings proposed in the attached ASF, and in particular having found that Andy Chi Chor Wong committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that:

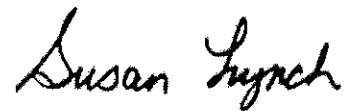
1. the licence of Andy Chi Chor Wong be suspended for fourteen (14) days;

2. at his own expense, Andy Chi Chor Wong 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 in the time period as directed by the Council;
3. Andy Chi Chor Wong pay enforcement expenses of this Consent Order to the Council in the amount of \$1,500.00 within sixty (60) days from the date of this Order.

If Andy Chi Chor Wong fails to comply with any term of this Order, the Council may suspend or cancel his licence without further notice to him, pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 21st day of July, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



S. Lynch, Chair
Consent Order Review Committee

Attch.

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

IN THE MATTER OF
ANDY CHI CHOR WONG
(083660)

AGREED STATEMENT OF FACTS,
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

The following agreement has been reached between Andy Chi Chor Wong ("Mr. Wong") and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Wong hereby consents to an Order to be made pursuant to sections 41 and 43 of the *Real Estate Services Act* that he:
- a. be suspended for fourteen (14) days commencing on a date to be determined by the Council;
 - b. at 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 in the time period as directed by the Council; and
 - c. pay enforcement expenses of this Consent Order to the Council in the amount of \$1,500.00 within sixty (60) days from the date of this Order.
- B. Mr. Wong further consents to an Order that if he fails to comply with any of the terms of the Order set out above, a Discipline Hearing Committee may suspend or cancel his licence without further notice to him pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.
- C. As a basis for this Order, Mr. Wong acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Wong was at all relevant times licensed as a representative with Amex-Fraseridge Realty.
 2. Mr. Wong's licensing history is as follows:

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

<u>Brokerage</u>	<u>Licence Level</u>	<u>Licence Category</u>	<u>Start Date</u>	<u>End Date</u>
Fraseridge Realty Ltd. dba Amex-Fraseridge Realty (X024387)	Representative	Trading, Rental	4/29/1997	Present
New Plan Realty Ltd. (X023722)	Representative	Trading, Rental	12/18/1995	4/29/1997
Broadview Realty Ltd. dba Sutton Group Broadview Realty (X019126)	Representative	Trading, Rental	12/04/1992	12/18/1995
Edgewater Associates Realty Limited (X020629)	Representative	Trading, Rental	10/02/1990	12/04/1992
Midland Pacific Properties Corporation (X019730)	Representative	Trading, Rental	05/02/1990	10/02/1990
Vigers (B.C.) Inc. (X020799)	Representative	Trading, Rental	11/07/1989	05/02/1990

3. On or about February 2, 2015, the Council received a complaint from licensee S.T. regarding Mr. Wong. According to S.T., while she was acting as a representative for the prospective buyer (the "Buyer") of a property on 41st Avenue in Vancouver, British Columbia (the "Property"), Mr. Wong was retained by the Buyer to conduct a home inspection. S.T. complained that during the home inspection, Mr. Wong advised the Buyer not to purchase the Property and proposed another property for the buyer to purchase.
4. On February 17, 2015, Council staff, in the course of investigating the complaint against Mr. Wong, conducted an internet search that confirmed Mr. Wong was advertising himself as a home inspector without referring to the fact that he was a real estate agent licensed with Amex-Fraseridge Realty.
5. On July 23, 2015, Council staff conducted an internet search that confirmed Mr. Wong was licensed as a home inspector.
6. On or about August 12, 2015, Mr. Wong's managing broker wrote to the Council and confirmed that the brokerage was not licensed to conduct building inspections, had never charged clients remuneration for building inspection services, and had no knowledge of the events at issue in S.T.'s complaint against Mr. Wong.
7. On or about August 31, 2015, Mr. Wong wrote to Council staff and advised that the services he provided to the Buyer in respect of the Property were provided in his capacity as a home inspector, not in his capacity as a real estate agent. Accordingly, he stated, the services had "nothing to do with Amex Fraseridge Realty Ltd."
8. Mr. Wong further stated that:

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER


- (i) he did not introduce the Buyer to any other agents, or show the Buyer any other houses, or write an offer for the Buyer;
 - (ii) he did not have an agency relationship with the Buyer; and
 - (iii) the Property was "dilapidated", with "many structures...not up to building standard"; accordingly, there were "lots of reasons for a timid buyer to reject this deal".
9. Mr. Wong now understands that while section 2.8 of the Real Estate Services Regulation provides an exemption for the requirement to be licensed for a person who provides "trading services" only by inspecting and reporting on the condition of the real estate, section 2 of the *Real Estate Services Act* states that a person who is licensed to provide real estate services is not able to act under any of these exemptions. Accordingly, a licensee providing the services identified in the section 2.8 exemption must do so in the name of and on behalf of their related brokerage, and any remuneration received for providing these services must be paid to and received from that brokerage.
10. Mr. Wong confirms that he has given up his home inspection licence, and that going forward, he will no longer provide services as a home inspector.
11. Mr. Wong has no prior discipline history with the Council.

D. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Andy Chi Chor Wong is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:
- (a) Andy Chi Chor Wong committed professional misconduct within the meaning of section 35(1)(a) of RESA in that:
 - i. contrary to sections 7(3)(a) and 7(3)(b) of *Real Estate Services Act* and section 3-2(2)(a) of the Council Rules, he provided "trading services", as that term is defined in *Real Estate Services Act*, to the Buyer in respect of the Property outside of the brokerage in relation to which he was licensed, and without informing his managing broker that he was providing such services, and accepted remuneration outside his brokerage for same;
2. Mr. Wong hereby waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.

AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

3. Mr. Wong acknowledges that he has a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Mr. Wong acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council newsletter, on the Council's website, and on CanLII, a website for legal research.
5. Mr. Wong acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the *Real Estate Services Act*, to appeal any decision of the Council, including this Agreed Statement of Facts, Proposed Acceptance of Findings, and Waiver and Consent Order.
6. The Agreed Statement of Facts and Proposed Acceptance of Findings contained herein are made for the sole purpose of resolving a complaint being considered by the Council and for that purpose only. Such agreed statement of facts and proposed acceptance of findings cannot be used in any civil proceedings.



Jennifer Millerd, Legal Counsel
Real Estate Council of British Columbia

As to Part C only (Agreed Statement
of Facts)

Dated 9 day of June, 2016



Andy Chi Chor Wong

As to Parts A, B, C and D (proposed
penalty, Agreed Statement of Facts,
Proposed Acceptance of Findings and
Waiver)

Dated 9 day of JUNE, 2016