

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

**IN THE MATTER OF  
MARC PEREZ (JR) VILLANUEVA  
(085289)**

**CONSENT ORDER**

RESPONDENT: Marc Perez (Jr) Villanueva, Managing  
Broker, Marc Villanueva Realty Inc.  
dba RE/MAX Marc Villanueva Realty

DATE OF REVIEW MEETING: April 11, 2016

DATE OF CONSENT ORDER: May 5, 2016

CONSENT ORDER REVIEW COMMITTEE: D. Fimrite  
M. Leslie, Chair  
S. Lynch  
S. McGougan  
E. Mignosa

ALSO PRESENT: R.O. Fawcett, Executive Officer  
G. Thiele, Director, Legal Services  
J. Millerd, Legal Counsel for the Real  
Estate Council

PROCEEDINGS:

On April 11, 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 Marc Perez (Jr) Villanueva.

**WHEREAS** the ASF, a copy of which is attached hereto, has been executed by Marc Perez (Jr) Villanueva and on behalf of the Council;

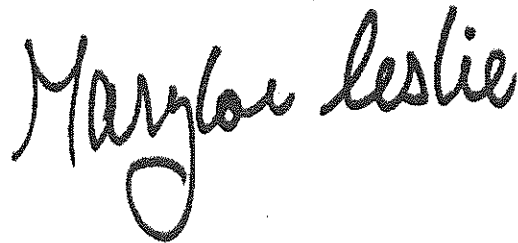
**NOW THEREFORE**, the Committee having made the findings proposed in the attached ASF, and in particular having found that Marc Perez (Jr) Villanueva committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act*, orders that Marc Perez (Jr) Villanueva:

1. be reprimanded;
2. pay a discipline penalty to the Council in the amount of \$5,000.00 within ninety (90) days of the date of this Order;
3. 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;
4. 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 Marc Perez (Jr) Villanueva 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 5<sup>th</sup> day of May, 2016 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE



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M. Leslie, Chair  
Consent Order Review Committee

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

IN THE MATTER OF

MARC PEREZ (JR) VILLANUEVA  
(085289)

AGREED STATEMENT OF FACTS,  
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

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The following agreement has been reached between Marc Perez (Jr) Villanueva ("Mr. Villanueva") and the Real Estate Council of British Columbia (the "Council").

- A. Mr. Villanueva hereby consents to an Order pursuant to sections 41 and 43 of the *Real Estate Services Act* that he:
1. be reprimanded;
  2. pay a discipline penalty to the Council in the amount of \$5,000.00 within ninety (90) days of the date of this Order;
  3. 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 directed by the Council; and
  4. pay enforcement expenses to the Council in the amount of \$1,500.00 within sixty (60) days of the date of this Order.
- B. Mr. Villanueva further consents to an Order that if he fails to comply with any of the terms the Order set out above, a Discipline Hearing Committee may suspend or cancel his licence without further notice to him pursuant to subsections 43(3) and 43(4) of the *Real Estate Services Act*.
- C. As a basis for this Order, Mr. Villanueva acknowledges and agrees that the facts set forth herein are correct:
1. Mr. Villanueva was at all relevant times licensed as a managing broker with Marc Villanueva Realty Inc. dba Re/Max Marc Villanueva Realty.



AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

2. Mr. Villanueva's licensing history is as follows:

Brokerage	Licence Level	Licence Category	Start Date	End Date
Marc Villanueva Realty Inc. (X026778)	Managing Broker	Trading, Rental	02/12/1998	Present
Ocean Pacific Realty Inc. (X016542)	Representative	Trading, Rental	30/01/1996	02/12/1998
*** Unlicensed ***			30/01/1994	29/01/1996
Ocean Pacific Realty Inc. (X016542)	Representative	Trading, Rental	30/01/1990	29/01/1994

3. This matter concerns Mr. Villanueva's conduct while acting as representative for C.B. and T.B., the sellers of a vacant lot located on View Avenue in Courtenay, B.C. ("Lot A").
4. According to Mr. Villanueva, at the time he listed Lot A for C.B. and T.B., there were three vacant lots adjacent to Lot A in a row on the street, and it was difficult to determine the boundaries of the individual lots. In error, Mr. Villanueva placed a "For Sale" sign on a vacant lot adjacent to Lot A ("Lot B").
5. On December 14, 2012, C.B. and T.B. entered into a Contract of Purchase and Sale (the "Contract") with a buyer (the "Buyer") pursuant to which the Buyer agreed to purchase Lot A for \$190,000.
6. According to J.E., the representative acting for the Buyer, the Buyer repeatedly asked Mr. Villanueva to provide the plot plan for the subdivision prior to the Contract's subject removal date of December 21, 2012, but Mr. Villanueva failed to do so.
7. J.E. stated that in the days leading up to the subject removal date of December 21, 2012, he and the Buyer met on the lot they believed to be Lot A (which in fact was Lot B) and cleared brush and debris in order to search for service stubs and surveyor's pins. The Buyer also contacted the City of Courtenay to directly request the plot plan for the subdivision. The Buyer was advised by the City that the information could not be provided to him as he was not the owner of the property at issue.
8. According to J.E., the Buyer, having been frustrated in his efforts to confirm the boundaries of Lot A, removed subjects by December 21, 2012. The Contract completed on February 15, 2013.

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AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER

9. On or about March 28, 2013, the Buyer discovered that the lot that had been advertised as Lot A was in fact Lot B. By the time the Buyer discovered the error, he had already cleared Lot B of brush and broom and begun to lay out the foundation for the construction of a home.
10. On or about March 30, 2013, the Buyer, J.E. and Mr. Villanueva met to discuss the matter. According to the Buyer and J.E., Mr. Villanueva admitted that he had mistaken Lot B for Lot A when he was listing the property, and offered to compensate the Buyer for the costs the Buyer had incurred in clearing the wrong lot.
11. On November 12, 2013, the Buyer commenced an action against Mr. Villanueva and others relating to the Buyer's purchase of Lot A (the "Action").
12. On July 3, 2014, Mr. Villanueva requested that the Council hold its file with respect to this matter in abeyance pending the outcome of the Action.
13. The Action was settled on February 23, 2015.

Discipline History

14. On May 20, 2005, following a hearing held on April 21, 2005, Mr. Villanueva was reprimanded and ordered to pay enforcement expenses to the Council after having been found to have committed professional misconduct within the meaning of s. 35(1)(a) of the *Real Estate Services Act* in that he:
  - a) failed to fulfill his responsibilities as managing broker for the performance of duties imposed on the brokerage by its licence within the meaning of section 6(2)(b) of the *Real Estate Services Act*; and
  - b) contravened section 3-1(1)(a) and (b) and 3-1(3) of the Council Rules by failing to ensure the brokerage's Accountant's Report was filed with the Council on or before March 18, 2005.
15. On September 12, 2010, Mr. Villanueva entered into a Consent Order in which he admitted to committing the same breaches that were the subject of the Council's May 20, 2005 order. He agreed to be reprimanded and to pay enforcement expenses and a discipline penalty of \$1,000 to the Council.

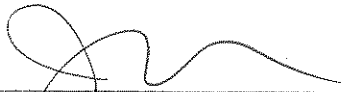
D. Proposed Acceptance of Findings and Waiver

- I. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Mr. Villanueva is prepared to accept the following findings if made against him by the Council's Consent Order Review Committee:



**AGREED STATEMENT OF FACTS, PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER**

- (a) Mr. Villanueva committed professional misconduct within the meaning of section 35(1)(a) of the *Real Estate Services Act* while acting as the representative for the sellers in the listing and sale of Lot A in that he:
- (i) contravened section 3-4 of the Council Rules by placing a "For Sale" sign for the sale of Lot A on adjacent Lot B thereby misleading the buyer to believe that he was purchasing Lot B.
2. Mr. Villanueva hereby waives his right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Mr. Villanueva 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. Villanueva 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. Villanueva 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 3<sup>rd</sup> day of March, 2016



Marc Perez (Jr.) Villanueva

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

Dated 2<sup>nd</sup> day of March, 2016