

Citation: 1052192 BC Ltd. (Re), 2023 BCSRE 17

Date: 2023-05-11

File # INV20.344.64820

BC FINANCIAL SERVICES AUTHORITY

**IN THE MATTER OF THE *REAL ESTATE DEVELOPMENT MARKETING ACT*
SBC 2004, c 41 as amended**

IN THE MATTER OF

1052192 B.C. LTD.

AND

JASKARN SINGH KANDOLA

AND

JASKARN SINGH BASI

CONSENT ORDER

(Pursuant to section 28 of the *Real Estate Development Marketing Act*)

[This Order has been redacted before publication.]

RESPONDENTS: 1052192 B.C. Ltd.
Jaskarn Singh Kandola
Jaskarn Singh Basi

DATE OF CONSENT ORDER: May 11, 2023

COUNSEL: Michael Jones, Legal Counsel for the BC Financial Services Authority
Riminder Gakhal, Legal Counsel for the Respondents

PROCEEDINGS:

On May 11, 2023, the Superintendent of Real Estate (the "Superintendent"), or the Superintendent's authorized delegate, of the BC Financial Services Authority ("BCFSA") accepted the Consent Order Proposal (the "Proposal") submitted by Jaskarn Singh Kandola, Jaskarn Singh Basi (Collectively, the "Directors") and 1052192 B.C. Ltd. (the "Developer").

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by the Directors and the Developer.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that the Directors and the Developer, acted contrary to sections 20.4 and 36 of the *Real Estate Development Marketing Act* (“REDMA”) and section 10.7(3) of the *Real Estate Development Marketing Regulation* (the “Regulation”), pursuant to sections 28, 30 and 31 of REDMA, the Superintendent orders that:

1. The Developer and Directors be jointly and severally liable to pay a penalty of \$50,000;
2. The Developer and Directors be jointly and severally liable to pay enforcement expenses in the amount of \$4,300; and,
3. All payments above be made within 30 days of execution of the Consent Order.

Dated this 11th day of May, 2023 in the City of Victoria, British Columbia.

Superintendent of the BC Financial Services Authority

“JONATHAN VANDALL”

Jonathan Vandall
Delegate of the Superintendent of Real Estate
Province of British Columbia

Attch. Consent Order Proposal

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CONSENT ORDER PROPOSAL

(Pursuant to section 28 of the *Real Estate Development Marketing Act*)

BACKGROUND

1. The BC Financial Services Authority (“BCFSA”) is responsible for enforcing developer filing requirements under the Real Estate Development Marketing Act (“REDMA”) and the Real Estate Development Marketing Regulation (the “Regulation”) in the Condo and Strata Assignment Integrity Register (“CSAIR”).
2. CSAIR is an online database for assignments of purchase agreements entered into by developers for the sale or lease of residential strata lots in B.C., including both pre-sale lots and completed lots.
3. The CSAIR reporting requirements came into effect on January 1, 2019. REDMA requires developers of residential strata lots in B.C. to collect and file information respecting assignments of purchase agreements that developers consent to on or after January 01, 2019, in the CSAIR in the form and manner prescribed in the Regulation.
4. Developers are required to create an account with the Land Title and Survey Authority of B.C. (“LTSA”), register their development in CSAIR, and file assignment information in accordance with the prescribed schedule and reporting periods listed in the Regulation.
5. CSAIR reporting requirements start when the first purchase agreement is entered into by the developer. The quarterly reporting periods are:
 - a. January 1 – March 31
 - b. April 1 – June 30
 - c. July 1 – September 30
 - d. October 1 – December 31
6. Information must be filed in CSAIR within 30 days after the end of each quarter. If there are no assignments during a reporting period, a statement certifying that there were no assignments during the reporting period must still be filed within 30 days after the end of that reporting period.

FACTS

This Consent Order Proposal (the "Proposal") is made by 1052192 B.C. Ltd., Jaskarn Singh Kandola, and Jaskarn Singh Basi to the Superintendent of Real Estate (the "Superintendent") of the BCFA pursuant to section 28 of REDMA.

For the purposes of the Proposal, the Superintendent and 1052192 B.C. Ltd., Jaskarn Singh Kandola, and Jaskarn Singh Basi have agreed upon the following facts:

1. 1052192 B.C. Ltd. was incorporated in British Columbia on October 15, 2015, and has a registered and records office at [Property 1], Kelowna, British Columbia. Jaskarn Singh Basi ("Basi") and Jaskarn Singh Kandola ("Kandola") are the sole directors (collectively, the "Directors") of 1052192 B.C. Ltd.
2. 1052192 B.C. Ltd. is the developer (the "Developer") of a property named [Development 1] (the "[Development 1]") and of a property named [Development 2] (the "[Development 2]").
3. The Developer was incorporated for [Development 1] and [Development 2] and has no prior experience in the development industry.
4. Kandola has over 30 years' experience in building homes. [Development 1] and [Development 2], however, were the first "development properties" (as defined in REDMA) that he had developed.
5. The Developer was represented by legal counsel, including between January 2018 and December 2022.

[Development 1]

6. The Developer filed a disclosure statement for [Development 1] on July 24, 2018 (the "1st Disclosure Statement").
7. The 1st Disclosure Statement discloses, in part, the following:
 - a. [Development 1] will be located at [Property 2], Kelowna, British Columbia, and will be comprised of eight (8) residential strata lots.
 - b. The legal description for the property is:

Parcel Identifier: [Redacted]
 - c. Section 7.2 allowed for assignment of the purchase contract with the consent of the Developer.
 - d. Marketing of the development was listed as [Individual 1] of [Brokerage 1].
8. On February 13, 2020, Staff wrote to legal counsel for the Directors and Developer to advise of a possible breach of REDMA and the Regulation for failure to file in CSAIR any information respecting assignments of purchase agreements or a statement certifying that there were no assignments for [Development 1]. Staff also requested a written undertaking from the Developer by February 20, 2020.
9. Between February 18 and 20, 2020, Staff communicated with counsel for the Developer and provided information on reporting requirements and contact information for technical assistance if any difficulties arose with filing.
10. On February 27, 2020, Staff accepted a written undertaking pursuant to section 36 of REDMA from one of the Directors (Kandola) and the Developer, in which the Developer undertook to

immediately register the Development in CSAIR, and to file an activity report as required and set out in the Regulation within 30 days from the end of the CSAIR reporting period in which the undertaking was made (the “Undertaking”).

11. Subsequent notifications have been sent prompting the Developer and Directors and/or their legal counsel to fulfil their filing obligations, including the following:
 - a. July 7, 2020, email; and
 - b. June 18, 2021, email.
12. Investigation by Staff revealed that the first purchase agreement was entered into on November 5, 2019, for unit 3 of [Development 1].
13. The CSAIR requirements came into effect on January 01, 2019, and the Developer’s obligation to report started when the developer entered into their first purchase agreement. Therefore, the first filing in CSAIR for [Development 1] should have been submitted in January 2020, for the October 01 – December 31, quarterly reporting period.
14. On December 19, 2019, the Developer registered [Development 1] on LTSA. The Developer filed an assignment report for quarter two (2) of 2021 during the applicable filing window and reported the total number of lots was 13, with no entry for the strata plan deposit date (which should have been entered as December 19, 2019).
15. The Developer and/or Directors did not consistently and/or accurately file assignment reports as required for [Development 1] for ten quarterly periods between October 1, 2019 and March 31, 2021.

[Development 2]

16. The Developer filed a disclosure statement for [Development 2] on April 23, 2019 (the “2nd Disclosure Statement”).
17. The 2nd Disclosure Statement discloses, in part, the following:
 - a. [Development 2] will be located at [Property 3], Kelowna, British Columbia, and will be comprised of five (5) residential strata lots.
 - b. The legal description for the property is:

Parcel Identifier: [Redacted]
 - c. Section 7.2 allowed for assignment of the purchase contract with the consent of the Developer.
18. On September 23, 2021, Staff wrote to counsel for the Directors and Developer advising that there was no assignment activity report filed for [Development 2]. The correspondence included information to assist with filing the assignment activity report.
19. Subsequent notifications have been sent prompting the Developer and Directors and/or their legal counsel to fulfil their filing obligations, including the following:
 - a. November 5, 2021, email;
 - b. December 13, 2021, email;

- c. February 7, 2022, email; and
 - d. March 23, 2022, email.
20. Investigation by Staff revealed that the first purchase agreement was entered into on October 4, 2018, for unit 132 of [Development 2]. The CSAIR requirements came into effect on January 01, 2019, and the Developer's obligation to report started when the developer entered into their first purchase agreement. Therefore, the first filing in CSAIR for [Development 2] should have been submitted on January 01, 2019.
 21. On May 10, 2019, the Developer registered [Development 2] on LTSA. The Developer filed an assignment report for quarter one (1) of 2022 during the applicable filing window, with no entry for the strata plan deposit date.
 22. The Developer and/or Directors did not consistently and/or accurately file assignment reports as required for [Development 2] for 13 quarterly periods between January 1, 2019 and March 31, 2022.
 23. The Developer sought advice and legal assistance from their legal counsel to fulfill the CSAIR requirements and be in compliance with REDMA.

PROPOSED FINDINGS

1. The Developer and/or the Directors failed to file information respecting assignments in CSAIR for the [Development 1] for ten (10) quarterly periods between October 1, 2019, and March 31, 2021, contrary to section 20.4 of REDMA;
2. The Developer and/or Directors failed to file information respecting assignments in the CSAIR for [Development 2] for thirteen (13) quarterly periods between January 1, 2019 and March 31, 2022, contrary to section 20.4 of REDMA;
3. The Developer and/or Directors failed to comply with the terms of the undertaking accepted by the Office of the Superintendent of Real Estate on February 27, 2020, for [Development 1], from February 27, 2020, to July 31, 2021, contrary to section 36 of REDMA;
4. The Developer and/or Directors failed to file the strata plan deposit date within the deposit reporting period for [Development 1] and/or [Development 2], contrary to section 10.7(3) of the Regulation;

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings, the Directors and the Developer propose that the Notice of Hearing in this matter be resolved through the following orders being made by the Superintendent pursuant to section 28, 30, and 31 of REDMA (the "Order"):

1. The Developer and Directors shall be jointly and severally liable to pay a penalty of \$50,000;
2. The Developer and Directors shall jointly pay enforcement expenses in the amount of \$4,300; and
3. All payments above shall be made within 30 days of execution of the Consent Order.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. The Directors and Developer understand that the Superintendent may accept or reject the Proposal. If the Proposal is rejected by the Superintendent, the matter may be referred to a disciplinary hearing.
2. The Directors and Developer acknowledge that they have 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 Hearing, and the execution and submission of the Proposal to the Superintendent; and, that they have obtained independent legal advice or have 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. The Directors and Developer acknowledge and are aware that BCFSa will publish the Proposal and the Consent Order or summaries thereof on BCFSa's website, on CanLII, a website for legal research, and in such other places and by such other means as BCFSa in its sole discretion deems appropriate.
4. The Directors and Developer hereby waive their right to appeal pursuant to section 37 of REDMA.
5. If the Proposal is accepted and/or relied upon by the Superintendent, the Directors and Developer will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict the Directors and Developer from making full answer and defence to any civil or criminal proceeding(s).
6. The Proposal and its contents are made by the Directors and Developer for the sole purpose of resolving the Notice of Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 28(3) of REDMA, the Proposal and its contents may not be used without the consent of the Directors and Developer in any civil proceeding with respect to the matter.

"JASKARN SINGH KANDOLA"

Jaskarn Singh Kandola

Dated 10th day of May, 2023

Jaskarn Singh Basi

Dated 10th day of May, 2023

"JASKARN SINGH KANDOLA"

**Authorized signatory for
1052192 B.C. LTD.**

Dated 10th day of May, 2023