

**IN THE MATTER OF  
THE REAL ESTATE DEVELOPMENT MARKETING ACT  
S.B.C. 2004, Chapter 41**

**and**

**528872 B.C. LTD.**

**CONSENT ORDER**

The following agreement has been reached between 528872 B.C. Ltd., Timothy Bruce Peligren and the Superintendent of Real Estate (the "Superintendent"):

**A. ORDERS**

528872 BC Ltd. ("528872" or the "Developer") and Timothy Bruce Peligren ("Peligren") consent to and the Superintendent makes the following orders pursuant to sections 28, 30 and 32 of the *Real Estate Development Marketing Act* (the "Act"):

1. That 528872 and Peligren will not market strata lots 46, 47, 116, 147, 178, 179, 180, 181, 182, 183, 184, 185, 186, 202, 217, 219, 220, 236, 237, 239, 240, 242, 243, 245, 253, 261, 262, 268, 269, 272, 273, 274, 280, 281, 283 and 284 of Strata Plan VIS 4673, in the development known as Little Qualicum River Village, located 20 kilometres west of Qualicum Beach, in the Regional District of Nanaimo, British Columbia, until an amendment to its August 5, 2008 disclosure statement, or a further disclosure statement, with the form and content satisfactory to the Superintendent, is filed with the Superintendent.
2. That 528872 and Peligren, jointly and severally, pay an administrative penalty in the amount of \$20,000 immediately upon execution of this order, pursuant to section 30(1)(d) of the *Act*.
3. That 528872 and Peligren, jointly and severally, pay costs of the investigation in the amount of \$7,750 immediately upon execution of this order, pursuant to sections 30(1)(c) and 31(1)(a) of the *Act*.

## **B. FACTS AND ADMISSIONS**

As the basis for these Orders, 528872 and Peligren acknowledge the following facts as correct and make the following admissions:

### ***Background***

1. 528872 was incorporated in British Columbia on October 10, 1996 and has its registered and records office at 1625 Meadowood Way, Qualicum Beach, British Columbia.
2. Peligren is the sole director and officer of 528872.
3. Peligren is also licensed as a realtor in British Columbia. He is presently licensed with Coldwell Banker Vancouver Island Realty in Parksville, British Columbia.
4. 528872 is the named developer in a development known as Little Qualicum River Village, Strata Plan VIS 4673, located on 575 acres of land, approximately 20 kilometres west of Qualicum Beach in the Regional District of Nanaimo, British Columbia (the "Development").

### ***Disclosure Statement***

5. To date, the Developer has filed disclosure statements, and amendments thereto, in respect of the Development as follows:
  - (a) a disclosure statement was filed on January 29, 1999 (the "Disclosure Statement");
  - (b) a first amendment to the Disclosure Statement was filed on October 19, 1999;
  - (c) a second amendment to the Disclosure Statement was filed on March 28, 2000;
  - (d) a third amendment to the Disclosure Statement was filed on August 3, 2001;
  - (e) a fourth amendment to the Disclosure Statement was filed on December 28, 2001;

- (f) a consolidated disclosure statement, which includes the Disclosure Statement and the four amendments thereto, was submitted to the Superintendent on December 28, 2001 (the Consolidated Disclosure Statement"); and
  - (g) a new disclosure statement for the marketing of strata lots 45, 96, 97, 103, 104, 113, 118, 136, 137, 164, 208, 213, 214 and 246, dated August 5, 2008, was accepted for filing on August 13, 2008 (the "New Disclosure Statement").
6. The Consolidated Disclosure Statement discloses, in part, the following information:
- (a) The Development consists of 286 strata lots in Strata Plan VIS 4673, which was registered at the Land Title Office in 1998: *Consolidated Disclosure Statement, pages 2 and 5-6.*
  - (b) The Development's real estate agent is identified as Peligren of Royal LePage Parksville-Qualicum Realty: *Consolidated Disclosure Statement, page 5.*
  - (c) To date, 100 of the 286 strata lots had been sold. The remaining 186 Developer-owned strata lots were listed for sale: *Consolidated Disclosure Statement, pages 3 and 5.*
  - (d) The strata lots consist of a strata building, which is a single storey structure, with a surface area of 26 square metres, intended for storage only (the "Storage Shed"). Each strata lot also includes a private yard area of up to several hectares: *Consolidated Disclosure Statement, pages 8-9 and Exhibit 1.1.*
  - (e) Most of the private yard areas which form part of each strata lot may be used for residential purposes: *Consolidated Disclosure Statement, pages 3, 11, and 12 and Exhibit 3.3.*
  - (f) Some of the private yard areas which form part of each strata lot may be used for commercial, recreational or agricultural purposes: *Consolidated Disclosure Statement, pages 3, 11-13 and Exhibit 3.3.*
  - (g) For a number of the private yard areas, the Schedule of Permitted Uses states that occupants must be at least 50 years old: *Consolidated Disclosure Statement, Exhibit 3.3.*
  - (i) As of the date of the Consolidated Disclosure Statement, the Developer has completed construction of the concrete foundations,

wood-frame walls and the opening for door installations for all 286 of the Storage Sheds: *Consolidated Disclosure Statement, page 9.*

- (j) The Developer expects to complete construction of the roofs and exterior walls of each of the Storage Sheds on or before December 31, 2002, at the Developer's expense. Construction specifications are as follows: each Storage Shed will be constructed of 2" x 4" wood-frame walls, with 2" x 10" wood-frame rafters. The roof of each will be sheathed with 5/8" thick sheathing and finished with a single torch-on membrane: *Consolidated Disclosure Statement, pages 3, 7 and 9.*
- (k) As of the date of the submission of the Consolidated Disclosure Statement, the Developer has completed the paving of approximately 50% of the access roadways. All roadways will provide for either two-way or one-way vehicular traffic, and will be finished with 3/4" crush road mulch and pavement, save for that part of the roadway system in front of strata lots 43-89, 169-186, 261-284, 244 and 245, which will be finished in 3/4" crush. Installation of all vehicular roadways will be completed by the Developer on or before December 31, 2002, at the Developer's expense: *Consolidated Disclosure Statement, pages 3, 7, 19 and 32.*
- (l) Installation of electrical and telephone service lines for certain strata lots will be completed on or before December 31, 2002, at the Developer's expense: *Consolidated Disclosure Statement, pages 3, 7, and 25- 27.*
- (m) The Developer intends to construct one additional "pump and haul" sanitary toilet facility and a communal septic field ground disposal facility for the use of the private yard areas of strata lots 91, 158, 159, 160, 166, 167, 198, 199, 206 and 217-221 by December 31, 2002: *Consolidated Disclosure Statement, page 27.*
- (n) The Developer will maintain a "no disturb" buffer zone between the present natural boundary of the Little Qualicum River and any Development construction. There shall be no removal of any vegetation within 15.0 metres (49.2 feet) of the natural boundary of the Little Qualicum River without first having received the express written consent and permission of the strata council and from any applicable governmental body or authority having jurisdiction: *Consolidated Disclosure Statement, page 10.*
- (o) The Developer has agreed to grant a section 219 *Land Title Act* covenant in favour of the Regional District of Nanaimo and the

Crown Provincial which will restrict the use of 47 of the strata lots which are either adjacent to or near the Little Qualicum River (the "Covenant"): *Consolidated Disclosure Statement, pages 2, 10, 14, 15 and 21.*

- (p) The Covenant concerns building setback requirements, minimum flood plain elevations for the siting of living accommodation and certain restrictions on use for one or more of the 47 strata lots affected: *Consolidated Disclosure Statement, page 10.*
  - (q) Copies of the amended bylaws of the strata corporation (registered March 23, 2000 and January 10, 2001 at the Victoria Land Title Office) were attached to the Consolidated Disclosure Statement as Exhibits 3.1 and 3.2. The strata corporation would be reviewing the strata's bylaws to determine which, if any, conflicted with the statutory provisions of the *Strata Property Act* and the Regulations thereto: *Consolidated Disclosure Statement, pages 2 and 12.*
  - (r) The last Annual General Meeting of the strata corporation (its third annual) had been held on December 1, 2001: *Consolidated Disclosure Statement, page 3.*
  - (s) A copy of the strata corporation's budget for the period of November 1, 2001 to October 31, 2002 was attached: *Consolidated Disclosure Statement, page 36 and Exhibit 8.1.*
  - (t) The strata corporation had purchased an insurance policy from CGU Insurance Company of Canada, with a policy term of one year, from July 7, 2001 to July 7, 2002: *Consolidated Disclosure Statement, page 34 and Exhibit 7.1.*
7. In January 2007, the Developer was continuing to market the remaining unsold units in the Development.
8. By January 2007, when staff of the Superintendent (the "Staff") attended at the site, the following could be observed at the Development:
- (a) Contrary to the representations made in the Consolidated Disclosure Statement, construction of all of the Storage Sheds had not been completed;
  - (b) Telephone lines were observed lying on the ground, taped to trees and/or hydro poles; and

- (c) Not all roads at the Development were constructed in accordance with the specifications set out in the Consolidated Disclosure Statement.
9. By January 2007, the Consolidated Disclosure Statement submitted in December 2001 was out of date and deficient and, pursuant to sections 3, 14 and 16 of the *Act*, ought to have been amended to include the following:
- (a) Identification of the change in real estate brokerage from Royal LePage to Coldwell Banker;
  - (b) Clarification that the river Covenant referenced in the Consolidated Disclosure Statement had never been registered;
  - (c) Updated information on the strata corporation's last annual general meeting;
  - (d) Updated information on the status of strata lot sales, a number of which had been sold between 2001 and 2007;
  - (e) Updated information on zoning bylaws affecting the Development. Specifically, the Board of the Regional District of Nanaimo ("RDN") adopted Electoral Area F Zoning Bylaw No. 1285, 2002 (the "Zoning Bylaw") on June 25, 2002. On April 13, 2004, the Board of the RDN amended the Zoning Bylaw. The Zoning Bylaw, as amended, regulates the permitted uses of the private yard areas of each of the 286 strata lots which comprise the Development;
  - (f) Updated information on the status of the strata corporation's bylaws which had been amended four times since the Consolidated Disclosure Statement was filed. Specifically, amended bylaws for Strata Corporation VIS 4673 were registered at the Victoria Land Title Office on February 5, 2003, December 24, 2004, December 1, 2005 and January 5, 2007;
  - (g) Updated information relating to the estimated timelines for completion of construction of the Storage Sheds, all roadwork on the Development, and completion of the installation of electrical and telephone lines;
  - (h) Updated information on the status of the water system at the Development, whether the necessary permits for the construction and operation of that water system had been obtained and the estimated time line for completion thereof;

- (i) Updated information on the status of the sewer systems at the Development and an updated time line for the completion of any sewer-related work;
- (j) Updated information of all charges and encumbrances which had been registered against the title of one or more of the unsold strata lots since the Consolidated Disclosure Statement had been submitted. For example, the following charges and encumbrances had been filed in respect of some of the Developer's strata lots between December 2001 and January 2007, but were not disclosed in an amended disclosure statement as required under the Act:

Strata lot 45

Easement registered March 27, 2002

Mortgage in favour of Accredited Mortgage Ltd. registered February 2, 2003 (cancelled May 11, 2005)

Strata lot 96

Mortgage in favour of Gulf Mortgage Investment Corporation registered March 3, 2004

Strata lot 97

Mortgage in favour of Gulf Mortgage Investment Corporation registered March 3, 2004

Strata lot 103

Mortgage in favour of Gulf Mortgage Investment Corporation registered December 7, 2006

Strata lot 104

Mortgage in favour of Gulf Mortgage Investment Corporation registered March 3, 2004

Easement registered April 2, 2007

Strata lot 113

Mortgage in favour of Gulf Mortgage Investment Corporation registered on March 3, 2004

Strata lot 118

Mortgage in favour of Gulf Mortgage Investment Corporation registered on March 3, 2004

Strata lot 136

Mortgage in favour of London Life Insurance Company registered May 23, 2001 (cancelled November 1, 2007)

Mortgage in favour of Accredited Mortgage Ltd. registered February 26, 2003 (cancelled May 11, 2005)

Strata lot 137

Mortgage in favour of Gulf Mortgage Investment Corporation registered March 3, 2004

Easement registered May 7, 2004

- (k) Updated information on strata corporation insurance; and
  - (l) Updated information on strata fees and the strata budgets which had been approved by the strata corporation since the Consolidated Disclosure Statement had been submitted.
10. By failing to amend the Consolidated Disclosure Statement to include the information set out in paragraph 10 above, the Developer and Peligren were in breach of sections 3, 14 and 16 of the *Act*.
  11. On January 17, 2007, the Superintendent issued a cease marketing order (the "Cease Marketing Order"), preventing the Developer from further marketing of units in the Development.
  12. In March and August 2007, the Developer sold two strata lots in the Development in breach of the Order. On January 22, 2008, 528872 and Peligren entered into a consent order with the Superintendent, admitting the breach, and agreeing to pay an administrative penalty in the amount of \$25,000 and costs in the amount of \$5,000 as a result.
  13. On July 30, 2008 the Cease Marketing Order was lifted to allow marketing of strata lots 45, 96, 97, 103, 104, 113, 118, 136, 137, 164, 208, 213, 214 and 246, once a new disclosure statement in respect of those lots was accepted for filing.

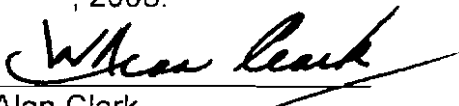


14. On August 13, 2008 the New Disclosure Statement was accepted for filing by the Superintendent, permitting the marketing of the 14 strata lots listed in paragraph 14 herein.

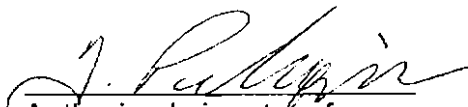
**C. WAIVER**

528872 BC Ltd. and Timothy Bruce Peligren each waive their right to appeal the terms of this Order under section 37 of REDMA.

Dated at Surrey, British Columbia, this 21<sup>st</sup> day of Nov., 2008.

  
W. Alan Clark  
Superintendent of Real Estate  
Province of British Columbia

Dated at Nanaimo, British Columbia, this 20<sup>th</sup> day of Nov., 2008.

  
Authorized signatory for  
528872 B.C. Ltd.

Dated at Nanaimo, British Columbia, this 20<sup>th</sup> day of Nov., 2008.

  
Timothy Bruce Peligren