

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

and

VASTU DEVELOPMENT CORPORATION

and

**DONALD BRIAN ARNEY, RICHARD MICHAEL BEIFUSS, MICHAEL BRUCE HARDY, MARK
MCCOOEY (OFFICER), MAURY SHAPKA (OFFICER), AND GARY WILBERT (OFFICER)
(DIRECTORS)**

and RUTH ANNE HELENE TAVES (AGENT/EMPLOYEE)

and the development known as VASTU FOREST ESTATES

**ORDER UNDER SECTIONS 30(1)(a), 30(1)(b) and 32(1)
REAL ESTATE DEVELOPMENT MARKETING ACT**

Upon reviewing the submissions and the supporting documents submitted by staff, I am of the opinion that:

1. The *Real Estate Development Marketing Act* ("the Act") requires a developer who markets or intends to market a development to file with the Superintendent of Real Estate ("the Superintendent") a disclosure statement in the required form and with the required contents before the developer commences marketing the development. The disclosure statement must, without misrepresentation, plainly disclose all material facts. The developer must not enter into a purchase agreement with a purchaser unless a copy of the disclosure statement has been provided to the purchaser. If a developer becomes aware that a disclosure statement contains a misrepresentation, the developer must immediately file with the Superintendent a new disclosure statement or an amendment that clearly identifies and corrects the misrepresentation.

2. Applicable sections of the Act are reproduced below:

Definitions

1 In this Act:

"developer" means a person who, directly or indirectly, owns, leases or has a right to acquire or dispose of development property;

"development property" means any of the following:

- (a) 5 or more subdivision lots in a subdivision, unless each lot is 64.7 ha or more in size;
- (b) 5 or more bare land strata lots in a bare land strata plan;
- (c) 5 or more strata lots in a stratified building;
- (d) 2 or more cooperative interests in a cooperative association;
- (e) 5 or more time share interests in a time share plan;
- (f) 2 or more shared interests in land in the same parcel or parcels of land;
- (g) 5 or more leasehold units in a residential leasehold complex."

"development unit" means any of the following in a development property:

- (a) a subdivision lot;
- (b) a bare land strata lot;
- (c) a strata lot;
- (d) a cooperative interest;
- (e) a time share interest;
- (f) a shared interest in land;
- (g) a leasehold unit.

...

"market" means

- (a) to sell or lease,
- (b) to offer to sell or lease, and

(c) to engage in any transaction or other activity that will or is likely to lead to a sale or lease;

...

Marketing of development property

3 (1) *A developer who markets or intends to market a development unit must*

(a) meet the applicable requirements of Division 2 [Preliminary Requirements or Approvals],

(b) ensure that arrangements have been made in accordance with Division 3 [Title Assurance and Utility Payments]

(i) to assure the purchaser's title or other interest for which the purchaser has contracted, and

(ii) to pay the cost of utilities and other services, and

(c) file and provide a disclosure statement in accordance with Division 4 [Disclosure Statements].

(2) A developer who receives a deposit must deal with the deposit in accordance with Division 5 [Deposits].

...

Filing disclosure statements

14 (1) *A developer must not market a development unit unless the developer has*

(a) prepared a disclosure statement respecting the development property in which the development unit is located, and

(b) filed with the superintendent

(i) the disclosure statement described under paragraph (a), and

(ii) any records required by the superintendent under subsection (3).

(2) A disclosure statement must

(a) be in the form and include the content required by the superintendent,

(b) without misrepresentation, plainly disclose all material facts,

(c) set out the substance of a purchaser's rights to rescission as provided under section 21 [rights of rescission], and

(d) be signed as required by the regulations.

3. Under Policy Statement 3 issued by the Superintendent effective January 1, 2005, it states:

Unless exempted by the Regulations, Section 14 of the Act requires developers to file a Disclosure Statement with the Superintendent before marketing development units in a development property. The Disclosure Statement must,

- (a) be in the form and include the content required by the Superintendent,*
- (b) without misrepresentation plainly disclose all material facts,*
- (c) set out the substance of a purchaser's rescission rights, and*
- (d) be signed as required by the Regulations.*

The form and content required by the Superintendent for a Disclosure Statement filed in relation to a development property consisting of five or more subdivision lots are set out in this Policy Statement. The onus is strictly on the developer to disclose plainly all material facts including a fact or proposal that could reasonably be expected to affect the value, price or use of the development property or development unit.

4. Section 6 of the *Real Estate Development Marketing Regulation* ("Regulation") concerns marketing of subdivision lots in a municipality and states:

6(1) In this section, "municipality" means a municipality incorporated under the Local Government Act or the Vancouver Charter, but does not include a regional district or an improvement district.

(2) A developer who markets a subdivision lot is exempt from Part 2 [Marketing and Holding Deposits] of the Act in respect of that marketing if

- (a) the subdivision lot is located in a municipality, and*
- (b) the developer has, in relation to the development property,*
 - (i) complied with all requirements set out in a bylaw enacted by the municipality under section 938 [subdivision servicing requirements] of the Local Government Act or section 292 [subdivision control] of the Vancouver Charter, as applicable, or*
 - (ii) deposited with the municipality any security required by the municipality under section 940 (2) of the Local Government Act.*

5. On December 14, 2007 Investigator Warren Chow, ("Chow") of the Financial Institutions Commission ("FICOM"), received a complaint concerning a development on Salt Spring Island called Vastu Forest Estates, ("Vastu Forest Estates") with a website at www.vastu.ca.
6. There is no Disclosure Statement filed with the Superintendent of Real Estate ("Superintendent") for any development containing the name "Vastu".

7. Vastu Forest Estates is marketed through the website as 12 non-strata lots within a subdivision on Salt spring Island, some of which are shown on the website as sold.
8. The domain name vastu.ca is owned and administered by Ruth Anne Taves. Staff confirmed that Ruth Anne Taves is Ruth Anne Helene Taves of Salt Spring Island, British Columbia ("Taves").
9. On the home page of the website it states, among other things, that:

Maharashi Sthapatya Veda in Canada

Bring peace, prosperity and happiness to your life!

Apply the holistic knowledge of Maharashi Sthapatya Veda _ * to your own home and discover:

More joy and clearer thinking

Increased support from nature

Improved health and increased energy ...

10. The home page also states:

Learn about current projects being developed in Canada.

Discover the principals of Maharashi Sthapatya Veda design and learn how you can live in harmony with nature.

Locate a builder of Vastu homes so that you can quickly move into your own fortune-creating home.

11. The home page further states:

Check out these exciting Maharashi Sthapatya Veda projects – Salt Spring Island in British Columbia and Maharashi World Peace Bay in Ontario!

12. Additionally, the home page has links to About, Sthapatya Veda, Ongoing Projects, Homes in Canada, Getting Started, and Contact Us.

13. Under the link for Ongoing Projects it provides links to two developments in British Columbia - Vastu Forest Estates – Salt Spring Island and Vastu Gardens Condos – Parksville, and another in Ontario, Golden Apple Development – Kanatta.

14. The link for Vastu Forest Estates goes to sub-domain pages within the website vastu.ca for Salt Spring Island, About Maharishi Sthapatya Veda, Ongoing Projects, Homes in Canada, Getting Started, Contact Us, Maps, Photo Gallery, and Lots for Sale.
15. The sub-domain for Vastu Forest Estates has a picture of what appears to be the development showing six lots with the word "sold" written across them, and states, among other things, that:

The development

The owners of this development have carefully crafted a 12 lot subdivision in total harmony with nature out of 70 acres of virgin forest to meet the requirements of Maharishi Sthapatya Veda design, the most ancient system of architecture in the world.

The land has received official approval for construction of Maharishi Sthapatya Veda homes. Slopes on the property are to the northeast, the most auspicious direction according to Vastu, and the land receives the early rays of the morning sun.

The development is currently under construction and is expected to be completed in 2007. Check out construction progress on the lots on the main road, appropriately named **Sunrise Place**, on our [Photo Gallery page](#).

Details of the development:

Lots range in size from 4 to 5 acres.

All lots have a wonderful selection of cedars, fir, balsam and hemlock as well as ferns and natural ground cover.

Two of the lots overlook Blackburn Lake on the neighbouring organic golf course, the only organic golf course in Canada!

Five of the lots border on a beautiful woodland stream.

Six lots have views of the islands lying east of Salt Spring in Georgia Strait.

Each house site is oriented to the east with views opened up to bring in natural light while still maintaining privacy.

Power and telephone services have been installed underground along the main road to each lot line.

Each lot has a drilled well, approved area for a septic field and a driveway roughed-in to the house site.

Live in a Vastu Home on Salt Spring

Here is your opportunity to live in a Vastu home! Choose your lot from the six remaining available lots in **Vastu Forest Estates**. Builders experienced in the construction of Vastu homes are available on Salt Spring to build a home for you and your family. We can help you bring all the details together.

But hurry! **For a limited time the remaining six lots will be marketed only to our meditation community.** This is your chance to live in harmony with nature while enjoying maximum privacy and a relaxing island lifestyle on beautiful Salt Spring Island. [Email us](#) today for more information.

16. Under the Maps link it displays several maps which appear to indicate where the development of Vastu Forest Estates is situated. On this page it states in part:

Vastu Forest Estates is centrally located on Salt Spring Island, just 5 km. south of the main urban centre of Ganges. The development is accessed from Blackburn Road and is located beside Blackburn Lake and the Blackburn Meadows Golf Course, the only organic golf course in Canada.”

The map above left shows an outline of the lots in **Vastu Forest Estates** superimposed on a contour map of the area. The land on the development slopes to the northeast, the most auspicious direction for a Vastu home. The map above right shows the zoning for the area.

17. Under the Photo Gallery link it states in part:

Salt Spring Island Project: A Photograph Gallery.

This page contains four photographs with a page number under each photograph and a description adjacent to the photograph. These descriptions relating to the photographs state as follows:

Page 4 The final stages of construction – The roadbed is prepared for paving and finishing touches are completed on each lot.

Page 3 Moving towards completion – The pace picks up as the base of the road is prepared, underground power and phone lines are installed and wells are drilled on each lot.

Page 2 Middle stages of the development – Follow the progress of Vastu Forest Estates as dirt is moved, rock is blasted, and the roadbed is carved into the landscape.

Page 1 Early stages of the development – See photos of the 70-acre property as it was before development began. Then follow the changes as the path of the main road, Sunrise Place, is cleared and construction begins.

18. Each of these pages contains links to photographs of what is described.

19. Under the link for “Lots For Sale” it states in part:

Vastu Forest Estates Listings

Lot 1

A magical acreage bordering on a bubbling stream. **\$249,000.**

Lot 2

Tree-studded building site perched on a ledge overlooking a woodland stream. **\$249,000.**

Lot 3

Listen to the quiet **\$239,000.**

Lot 6

Lake view acreage in a private tranquil setting. **\$269,000.**

Lot 7

Beautifully forested, private lot with island views. **\$279,000.**

Lot 12

Expansive view of neighbouring mountain ridge. **\$239,000.**

In this aerial photo you can see Blackburn Meadows, an organic golf course, and Blackburn Lake which are located to the east of the development." (An aerial photograph is on page two of this link showing the Vastu Forest property.)

20. Under each link for the lots it shows pictures of the property and states in part:

Lot 1:

Walk In The Woods

Lot 1 \$249,000 + GST

A rare, private acreage set amongst mature maple, cedar and fir trees in the centre of the island. This level property is very easy to develop.

There is easy access to an established nature trail along a bubbling stream that borders the property.

The roughed-in driveway meanders past a year-round pond and through a magical forest to the building site which is situated to take maximum advantage of the forest view.

Drilled well is in place and underground power and telephone lines are installed to the lot boundary.

This lot is a part of a prestigious bare land strata development that has been designed for homes to be constructed in harmony with nature.

Lot 2:

Sun-dappled Forest

Lot 2 \$249,000 + GST

This 5 acre property is beautifully treed and borders a woodland stream and private nature trail.

Plenty of potential for developing your own trails through the woods. The mixed forest of firs, cedars and maples provide privacy but also allow light to filter onto the site.

The building site overlooks the neighbouring stream and valley from its vantage point on a forested ledge.

Views can be opened up by the future owner or left to maintain privacy if desired.

Contact us to view this beautiful lot and discuss your building plans today.

Lot 3:

Your Own Cathedral Grove

Lot 3 \$239,000 + GST

This beautiful acreage is set amongst some of the most lush forest in the area. Tall firs, maples and cedars line the driveway. As you approach the house site, the trees open up giving the impression of being in a tall cathedral – your own cathedral grove!

There is a silence, a deep stillness to this special lot, located near the centre of this prestigious development.

Here's the perfect spot to build your dream home in tune with nature – on 5.9 acres of nature's finest glories.

Enhance the property by establishing your own nature trails through the ferns and moss-covered rocks down to the neighbouring stream. Or develop gardens on the open area near the building site. There are many possibilities!

Underground power and telephone lines are readily accessible to the house site as is the drilled well.”

Lot 6:

Rare Sunny Level Acreage

Lot 6 \$269,000 + GST

This 5 acre property offers many rare qualities to potential buyers. The property is mostly level with many sunny areas offering excellent garden locations. The large open area near the building site will accommodate a house of any size and is easy to develop.

Neighbouring Blackburn Lake can be seen peeking through the trees from the house site. There is easy access to Blackburn Lake and this popular swimming spot via a trail at the edge of the property.

This prime lot offers exceptional privacy because of its location at the end of a cul-de-sac.

Underground power and telephone service have eliminated poles and lines through Vastu Forest Estates. These services are installed to the lot line ready for access when your house construction begins.”

Lot 7:

Exceptional Blend of Island Views and Abundant Forest

Lot 7 \$279,000 + GST

This magnificent 5.4 acre property offers a rare combination of expansive forest along with mountain and island views.

The building site is reached via a winding driveway surrounded by majestic forest. As you reach the house site, the views open up to reveal the islands lying in the ocean to the east of Salt Spring. Island and mountain views can be expanded by the future owner if desired.

This property enjoys an exceptionally private location at the end of the cul-de-sac.

Level sunny areas with good soil present excellent opportunities for gardeners.

Lot 12:

Mountain View Acreage

Lot 12 \$239,000 + GST

This sunny 3.8 acre lot is the perfect location for your dream home. Nature's beauty abounds – from the magnificent mountain views to the neighbouring Forest Reserve.

The house site receives sun throughout the day. Some of the views have been opened up but most of the beautiful cedar, fir and maple trees have been left in place for the future owner to determine the balance between views and trees.

Develop your own trail to the ideal location for a gazebo or private reading spot. Or explore the undeveloped park land south of the property.

Telephone and power lines have been placed underground in this prestigious subdivision to enhance the natural environment. Drilled well is located near the building site.

At the bottom of each lot description there is a form for a potential purchaser to inquire about and/or make an appointment to view the property.

The link for Salt Spring Island goes to a site which describes Salt Spring Island and refers to Vastu on Salt Spring, and Vastu Forest Estates.

21. Under the heading Vastu Forest Estates, it states in part:

Vastu Forest Estates is a development of 12 lots nestled in a quiet forest just minutes from the major urban centre of Salt Spring. These lots have been specifically designed for Vastu homes. Find out more about this development on this website. Lots will be available for purchase soon and builders are readily available to construct your Vastu home.

22. The information contained on the website also states "For more information on how you can quickly live in a proper Vastu on Salt Spring Island, contact Ruth Anne Taves, Project Manager, by email at ruthanne@vastu.ca or by phone 250-537-9235.

23. There is a Vastu Gardens Newsletter #9 found at www.vastugardens.ca/vastugardens_ltr9web.html which, on the third page, under the heading Projects Across Canada it states, amongst other things, that:

The very dynamic community on Salt Spring Island continues to develop land, build houses and expand their community. Vastu Forest Estates a development put together through the exceptional drive and organizing abilities of Ruth Anne Taves has only 6 vastu lots remaining of the original 12. Ruth Anne has been incredibly helpful to us with our projects, and we have conferred with her on a further project for Salt Spring that she will soon announce.

24. On December 18, 2007, Chow contacted an island planner with the Islands Trust to discuss the Vastu Forest Estates project who confirmed:

He searched his database for Vastu Forest Estates and found nothing.

He subsequently searched for the name Vastu and found the Vastu Development Corporation.

In the Vastu Development file were numerous contacts and notes between Islands Trust employees and Taves.

The development consisted of 67.68 acres with a parcel identification number of 000-040-351, subdivision identifier SS-Sub-2004.1.

Vastu Development was granted preliminary layout approval in July of 2004.

Islands Trust was waiting for final approval from the Ministry of Transportation for the development.

25. Vastu Development Corporation is a British Columbia registered corporation with the following details as of December 14, 2007.

Registration No.: BC0676170

Registration date: August 29, 2003

Registered and
Records Office: c/o Patterson Adams
P.O. Box 1231, #402 – 707 Fort Street
Victoria, British Columbia V8W 2T6

Directors: Don Arney, Salt Spring Island, British Columbia
R. Michael Beifuss, Salt Spring Island, British Columbia
Michael Hardy, Salt Spring Island, British Columbia
Mark McCooey, Richmond, British Columbia
Maury Shapka, Edmonton, Alberta,
Gary Wilbert, Gordonsville, Virginia , USA

Officers: Don Arney – President
Maury Shapka – Vice President
Gary Wilbert – Secretary

26. Staff confirmed that Don Arney ("Arney") is Donald Brian Arney, Salt Spring Island, British Columbia, Michael Beifuss ("Beifuss") is Richard Michael Beifuss of Salt Spring Island, British Columbia, Michael Hardy is Michael Bruce Hardy of Salt Spring Island, British Columbia, and Mark McCooey is Mark McCooey ("McCooey") of Richmond, British Columbia.
27. On December 18, 2007, Chow spoke with a technician with the British Columbia Ministry of Transportation ("MOT"), who is involved in the file for Vastu Forest Estates, as the MOT approves developments located within the Islands Trust. The technician stated:

She has been in contact with Taves on this matter.

She believes Taves to be the person responsible for the majority of Vastu Development and the Vastu Forest Estates project.

Preliminary layout approval was granted with approval to begin construction of roads.

Vastu Development Corporation must comply with Islands Trust conditions such as frontage requirements.

She believes Vastu Development Corporation is getting ready to submit final plans for approval by the Ministry of Transportation.

28. Vastu Forest Estates is a development property pursuant to the *Act* since it is comprised of five or more non strata lots or subdivision lots in a subdivision. The development property is owned by Vastu Forest Development Corporation and marketed as defined in the *Act* under the name "Vastu Forest Estates". The website used for marketing the development is owned by Taves and I find that she has acted as the agent or employee of Vastu Development Corporation in marketing the development and obtaining regulatory approval with the Islands Trust and Ministry of Transportation.
29. There is no exemption for the requirement of a disclosure statement for Vastu Forest Estates pursuant to the *Act* and *Regulation*.
30. The exemption in Section 6 of the *Regulation* is for serviced, bonded, non-strata lots located within a municipality. However, Vastu Forest Estates is located on Salt Spring Island and is governed by the Islands Trust and not a municipality.
31. I find that Vastu Development Corporation, by its directors Donald Brian Arney, Richard Michael Beifuss, Michael Bruce Hardy, Mark McCooey (also as an officer), Maury Shapka (also as an officer), and Gary Wilbert (also as an officer) and by its agent or employee Ruth Anne Helene Taves, is marketing the Vastu Forest Estates development without a disclosure statement in contravention of the filing disclosure statement requirements of the *Act*.
32. I agree with staff that scheduling of witnesses, counsel and the hearing officer would likely result in a three to four month delay in the ability to hold a hearing into this matter. I am also of the opinion that more investigation may be required, however the time to complete the investigation would also result in further delay.

33. Vastu Development Corporation and its principals and agent/employee continue to market the development units which exposes potential buyers to marketing of development units without the disclosure required pursuant to legislation. The legislative requirements are enacted in the public interest so that members of the public are able to make an informed decision when purchasing development units.
34. The length of time, three to four months, to hold a hearing and complete an investigation would likely result in continued non-compliance which I find to be detrimental to the public interest.
35. I find that it is in the public interest to make a summary cease marketing order under Section 32 of the *Act* so that the public is protected against further non-compliance with the *Act*.

AND WHEREAS I am satisfied that Vastu Development Corporation, Donald Brian Arney, Richard Michael Beifuss, Michael Bruce Hardy, Mark McCooey, Maury Shapka, Gary Wilbert, and Ruth Anne Helene Taves, have marketed development units in the development known as Vastu Forest Estates on Salt Spring Island, British Columbia and they have failed to file a disclosure statement with the Superintendent prior to the marketing of development units as required pursuant to the *Act*;

I AM THEREFORE OF THE OPINION that Vastu Development Corporation, Donald Brian Arney, Richard Michael Beifuss, Michael Bruce Hardy, Mark McCooey, Maury Shapka, Gary Wilbert, and Ruth Anne Helene Taves have been non-compliant with the *Act*;

I AM FURTHER OF THE OPINION that the length of time that would be required to complete an investigation or hold a hearing, or both, would be detrimental to the public interest. It is in the public interest to make a summary cease marketing order under section 32 of the *Act* so that the public is protected against further non-compliance with the *Act*;

I THEREFORE CONSIDER IT in the public interest to make the following Order pursuant to sections 30(1)(a), 30(1)(b) and 32(1) of the *Act*:

That Vastu Development Corporation, Donald Brian Arney, Richard Michael Beifuss, Michael Bruce Hardy, Mark McCooey, Maury Shapka, Gary Wilbert, and Ruth Anne Helene Taves shall cease marketing any and all development units in the development property known as Vastu Forest Estates located on Salt Spring Island, British Columbia, prior to the filing of a disclosure statement in accordance with the *Act*.

TAKE NOTICE that Vastu Development Corporation, Donald Brian Arney, Richard Michael Beifuss, Michael Bruce Hardy, Mark McCooey, Maury Shapka, Gary Wilbert, and Ruth Anne Helene Taves may, pursuant to section 37(1)(f) of the *Act*, appeal the Order pertaining to each to the Financial Services Tribunal, or require a hearing before the Superintendent pursuant to section 32(4) of the *Act*.

Dated at the City of Surrey,
Province of British Columbia
This 7th day of January, 2008.

A handwritten signature in black ink, appearing to read "W. Alan Clark", written over a horizontal line.

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

TO: Vastu Development Corporation
c/o Patterson Adams
P.O. Box 1231
#402 – 707 Fort Street
Victoria, B.C. V8W 2T6

Vastu Forest Estates
c/o Patterson Adams
P.O. Box 1231
#402 – 707 Fort Street
Victoria, B.C. V8W 2T6

Donald Brian Arney

[REDACTED]

Richard Michael Beifuss

[REDACTED]

Michael Bruce Hardy

[REDACTED]

Mark McCooey

[REDACTED]

Maury Shapka

[REDACTED]

Gary Wilbert

[REDACTED]

Ruth Anne Taves

[REDACTED]