

IN THE MATTER OF THE REAL ESTATE DEVELOPMENT MARKETING ACT
SBC 2004, Chapter 41

-AND-

JR CONCEPT DEVELOPMENTS INC. AND JUGDEEP RANDHAWA

ORDER UNDER SECTIONS 30(1)(a) 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:

... (c) 5 or more strata lots in a stratified building;...

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

...

(c) a strata lot;

...

"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].

...

Early marketing with permission

10 (1) Despite sections 4 to 9 [subdivision lots and bare land strata lots to shared interests in land outside B.C.], a developer may market a development unit if the developer has obtained both

(a) approval in principle to construct or otherwise create the development unit from the appropriate municipal or other government authority, and

- (b) the superintendent's permission to begin marketing.*
- (2) In relation to a permission given under subsection (1) (b), the superintendent may*
 - (a) attach conditions to the permission, and*
 - (b) at any time, revoke the permission.*
- (3) The superintendent may publish, in accordance with the regulations, a policy statement setting out circumstances in which permission will be deemed to be granted under subsection (1) (b) to developers who are described by the circumstances set out in the notice.*
- (4) If the superintendent publishes a policy statement under subsection (3), a developer who is described by the circumstances set out in the policy statement*
 - (a) is deemed to have the superintendent's permission under subsection (1) (b), and*
 - (b) must comply with the terms and conditions, if any, that are stated in the policy statement.*

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.*

Non-compliant disclosure statements

- 16 (1) If a developer becomes aware that a disclosure statement does not comply with the Act or regulations, or contains a misrepresentation, the developer must immediately*
- (a) file with the superintendent, as applicable under subsection (2) or (3),*
 - (i) a new disclosure statement, or*
 - (ii) an amendment to the disclosure statement that clearly identifies and corrects the failure to comply or the misrepresentation, and*
 - (b) within a reasonable time after filing a new disclosure statement or an amendment under paragraph (a), provide a copy of the disclosure statement or amendment to each purchaser*
 - (i) who is entitled, at any time, under section 15 [providing disclosure statements to purchasers] to receive the disclosure statement, and*
 - (ii) who has not yet received title, or the other interest for which the purchaser has contracted, to the development unit in the development property that is the subject of the disclosure statement.*
- (4) A developer who is required to file a new disclosure statement or an amendment under subsection (1) must not market a development unit in the development property that is the subject of the new disclosure statement or amendment*
- (a) until the developer has complied with subsection (1) (a), or*
 - (b) unless permitted by the superintendent.*

3. JR Concept Developments Inc. ("JR Concept") was incorporated in British Columbia on November 15, 2005. The registered and records office is located at 10851 – 157A Street in Surrey, British Columbia.
4. Jugdeep Randhawa is the sole officer and director of JR Concept.
5. JR Concept is the named developer in a development known as The Inglenook (the "Development"). The development is located on Buck Road in Mount Baldy, British Columbia. JR Concept is the registered owner of the Development.
6. JR Concept filed a disclosure statement with the Superintendent on March 9, 2007, and an amendment to that disclosure statement on April 4, 2007 (collectively the "Disclosure Statement"). The Disclosure Statement discloses that:
 - The Development is legally described as: PID 026-938-197, Lot 24, District Lot 100S, Similkameen Division, Yale District, Plan KAP82817;
 - The Development will consist of 20 residential townhouse-type strata lots, constructed within one wood frame building. Sixteen of the strata lots will be two bedroom townhouses and four strata lots will be one bedroom townhouses;
 - JR Concept has not obtained a building permit for the Development but has obtained preliminary layout approval for the Development from the Regional District of Kootenay Boundary; and
 - The Disclosure Statement is filed pursuant to the Superintendent's Policy Statement 5 which allows early marketing of the Development. In accordance with this policy, the Developer markets the Development for a period of no more than nine (9) months from the date the Disclosure Statement is filed with the Superintendent unless an amendment to the Disclosure Statement that sets out particulars of the issued building permit is filed with the Superintendent during that period.
7. The Superintendent has published a policy statement pursuant to section 10 of the *Act* setting out the circumstances in which developers can begin early marketing of a development. Policy Statement 5 allows a developer, who has not yet obtained a building permit for its development, to market the proposed development for a period of no more than nine months from the date the disclosure statement was filed with the Superintendent, unless an amendment to the disclosure statement that sets out particulars of the issued building permit is filed with the Superintendent during that period. A building permit for the development would include a permit or permits for the excavation, the foundation, and the buildings.
8. On March 13, 2007, the Superintendent's staff ("the Staff") wrote to JR Concept's legal counsel confirming that the Disclosure Statement had been filed with the Superintendent. JR Concept was advised in that letter that an amendment to the

Disclosure Statement must be filed by December 9, 2007, indicating receipt of a building permit for the Development, or all marketing must cease as of that date.

9. On December 6, 2007, the Staff left a telephone message with JR Concept's legal counsel reminding JR Concept that the due date for filing an amendment to the Disclosure Statement was December 9, 2007.
10. On December 14, 2007, the Developer filed an amendment to the Disclosure Statement with the Superintendent (the "Amendment").
11. On December 18, 2007, the Staff reviewed the Amendment and noted that it was deficient as it did not disclose whether the Developer had obtained a building permit and did not include all the information required under the Superintendent's Policy Statement 14 (Development Property Not Yet Completed) and Policy Statement 15 (Developer's Background and Conflicts of Interest).
12. On December 18, 2007, the Staff spoke to JR Concept's legal counsel to explain the deficiencies and to inform them that the Amendment would be rejected. JR Concept's legal counsel confirmed that JR Concept did not have a building permit as required. The Staff directed JR Concept, through its legal counsel, to cease marketing the Development immediately.
13. On December 18, 2007, the Staff requested JR Concept to enter into an undertaking with the Superintendent to cease marketing the Development until JR Concept files an amendment to the Disclosure Statement setting out the details of the building permit.
14. As of January 23, 2008, neither the required amendment to the Disclosure Statement nor the requested undertaking had been filed with the Superintendent.
15. JR Concept is marketing the Development on its website at www.conceptdevelopments.com. As of January 23, 2008, the website stated that the Development would be ready for occupancy in September, 2008 and directed interested parties to another website, www.mtbaldyrealestate.com. This website advertises seven of the 20 strata lots in the Development for sale through Mark Jennings-Bates ("Jennings-Bates") of Coldwell Banker Horizon Realty. The Disclosure Statement indicates that Jennings-Bates is JR Concept's real estate agent.
16. Under section 16 of the *Act*, if a developer becomes aware that its disclosure statement does not comply with the *Act* or contains a misrepresentation, the developer must immediately file an amendment to its disclosure statement, or a new disclosure statement, to correct the non-compliance or misrepresentation. Additionally, a developer must not market the Development until the amendment or new disclosure statement has been filed unless permitted to do so by the Superintendent.
17. JR Concept was notified that its Disclosure Statement did not comply with section 10 of the *Act*. JR Concept failed to file an amendment to the Disclosure Statement that

complied with section 10 of the *Act*. The Superintendent has not given JR Concept permission to continue marketing the Development.

18. JR Concept continues to market the Development in contravention of the *Act* and the Superintendent's direction. This conduct 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.
19. I agree with staff that scheduling of witnesses, counsel and the hearing officer would likely result in a two to three month delay in the ability to hold a hearing into this matter.
20. The length of time required to hold a hearing will likely result in the continued non-compliance of the *Act* by JR Concept which I find to be detrimental to the public interest.
21. I find that it is in the public interest to issue 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 JR CONCEPT DEVELOPMENTS INC. and its director JUGDEEP RANDHAWA have marketed development units in the Development after the expiry of the nine month period allowed under section 10 of the *Act* and the Superintendent's Policy Statement 5 without filing the required amendment to disclose receipt of a building permit.

AND WHEREAS JR CONCEPT DEVELOPMENTS INC. and its director JUGDEEP RANDHAWA have marketed development units in the Development without filing an amendment as required under section 16 of the *Act*, to correct the non-compliance or misrepresentations contained in the Disclosure Statement.

I AM THEREFORE OF THE OPINION that JR CONCEPT DEVELOPMENTS INC. and its director JUGDEEP RANDHAWA 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 CONSIDER it in the public interest to make the following Order pursuant to sections 30(1) (a) and 32(1) of the *Act*.

I THEREFORE MAKE the following Order:

1. That JR CONCEPT DEVELOPMENTS INC. and its director JUGDEEP RANDHAWA shall cease and refrain from marketing any and all development

units in the Development known as The Inglenook located in Mount Baldy, British Columbia.

TAKE NOTICE that JR CONCEPT DEVELOPMENTS INC. and its director JUGDEEP RANDHAWA 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, in the
Province of British Columbia
this 5th day of February, 2008.



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

TO: JR CONCEPT DEVELOPMENTS INC.
10851 – 157A Street
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JUGDEEP RANDHAWA
[REDACTED]
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