



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

-AND-

J. GORDON ENTERPRISES LTD.

-AND-

JASON GORDON

CONSENT ORDER  
[REDMA s.28]

The following agreement having been reached between and consented to by J. Gordon Enterprises Ltd. ("J.G. Enterprises") and Jason Gordon ("Gordon") and the Staff of the Superintendent of Real Estate (the "Staff"), the Superintendent of Real Estate (the "Superintendent") agrees to the following terms of a consent order:

**A. ORDERS**

J.G. Enterprises and Gordon consent to, and the Superintendent makes, the following orders pursuant to sections 28, 30 and 31 of the *Real Estate Development Marketing Act* (the "Act"):

1. That J.G. Enterprises shall pay an administrative penalty in the amount of **\$10,500.00**, immediately upon execution of this Order, pursuant to section 30 of the Act;

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Superintendent of Real Estate

Suite 2800, Box 12116  
555 West Hastings  
Vancouver, BC V6B 4N6  
Telephone: 604-660-3555  
Facsimile: 604-660-3655  
<http://www.fic.gov.bc.ca>

2. That J.G. Enterprises shall, pay costs of the investigation in the amount of **\$2,138.00**, immediately upon execution of this Order, pursuant to sections 30(1)(c) and 31 of the Act.
3. That the hearing currently scheduled to take place June 12-14, 2012 is cancelled.

## **B. FACTS AND ADMISSIONS**

As the basis for these Orders, J.G. Enterprises and Gordon acknowledge the following facts as correct and make the following admissions:

### *Background*

1. J.G. Enterprises was incorporated in British Columbia on September 22, 2000. J.G. Enterprises registered and records office is located at the 10<sup>th</sup> Floor, 595 Howe Street in Vancouver, British Columbia.
2. Gordon is a director and officer of J.G. Enterprises.

### *Ferguson Way Development*

3. 32850 and 32870 George Ferguson Way, Abbotsford, British Columbia, consists of three separate buildings which, together, form Strata Plan LMS 375 ("LMS 375"). The history of LMS 375 is as follows:
  - (a) Two of the three buildings which comprise LMS 375 were built in 1976.
  - (b) The strata plan for the two original buildings was deposited in the Land Title Office on December 20, 1976, forming Strata Plan NW 703 ("NW 703").
  - (c) In 1992, a third building was constructed. The original strata plan which had been deposited in 1976 was cancelled, and a new strata plan was then deposited in the Land Title Office on May 8, 1992, creating LMS 375.

4. J.G. Enterprises is the developer, as that term is defined in the Act (the "Developer"), of a development consisting of 54 strata lots in LMS 375, all of which are located in the two buildings which originally formed part of NW 703 (the "Development") and all of which were constructed in 1976. None of the strata lots which form part of the Development were constructed by J. G. Enterprises.
5. On April 6, 2010, Staff received an inquiry from the Developer's solicitor regarding the application of a regulatory exemption to a hypothetical fact pattern. Specifically, Staff was asked whether the exemption in section 7(3)(a) of the *Real Estate Development Marketing Regulation* (the "Regulation") would apply to development property located in a building which was constructed and stratified prior to February 17, 1977 but where, after that date, the original strata plan was revoked and replaced by the Land Title Office following the addition of another building to the complex. The exemption in question reads as follows:

"7(3) A developer who markets a development unit is exempt from Part 2 of the Act in respect of that marketing if the development unit is

(a) a strata lot that was created by a strata plan deposited and registered in a land title office on or before February 17, 1977..."
6. On April 9, 2010 Staff responded to the April 6, 2010 inquiry, indicating that the exemption found in s.7(3)(a) of the Regulation likely did not apply as the existing strata lots were created under a new strata plan which was deposited after February 17, 1977. Therefore, a disclosure statement would appear to be required from any developer who wished to offer development property (i.e. strata lots) for sale.
7. On April 28, 2010, the Developer filed a disclosure statement in respect of the Development (the "Disclosure Statement"). The Disclosure Statement disclosed that a number of strata lots in the Development had been sold prior to the Disclosure Statement having been filed. Some strata lots were even sold after April 9, 2010, the date on which the Developer's solicitor was advised by Staff that a Disclosure Statement was likely required. Marketing of any strata lots prior to the Disclosure Statement being filed constituted a breach of sections 3 and 15 of the Act.
8. The Developer failed to file a disclosure statement before marketing the units as it was operating under the honest but mistaken belief that the exemption found in section 7(3)(a) of the Regulation applied, as all of the

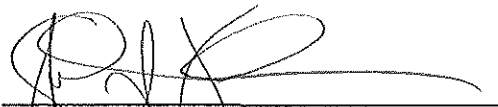
strata lots in the Development formed part of the original strata plan which had been filed in December 1976. The Developer did ask the realtor for the Development to provide a copy of the Disclosure Statement to those who had purchased strata lots before April 28, 2010, if he was able to do so.

9. On May 13, 2010, Staff wrote the Developer's solicitor advising that the Disclosure Statement appeared to contain some deficiencies. If those deficiencies were not corrected by May 20, 2010, Staff asked that all marketing of strata lots in the Development cease. Staff also asked that the Developer provide an undertaking confirming that all marketing had ceased as of May 20, 2010.
10. Despite Staff's request, the Developer never provided an undertaking confirming that all marketing had ceased as of May 20, 2010.
11. On June 25, 2010, the Developer filed an amended disclosure statement (the "Amended Disclosure Statement").
12. One strata lot in the Development was sold pursuant to a contract of purchase and sale executed on June 11, 2010. Title to this strata lot was transferred on July 28, 2010. The sale of this strata lot occurred at a time when Staff had indicated that the Disclosure Statement was defective and needed to be amended before marketing could continue. The Amended Disclosure Statement was not filed until June 25, 2010. The Developer breached s.16(4) of the Act by selling this strata lot at a time when it knew that the Disclosure Statement was deficient.

**C. WAIVER**

13. J.G. Enterprises waives its right to appeal under section 37 of the Act.

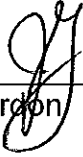
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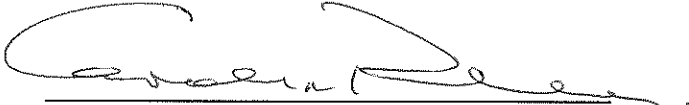
Stephanie A. Jackson  
Legal Counsel to the Staff of the  
Superintendent of Real Estate

CONSENTED TO BY:

  
\_\_\_\_\_  
Duly authorized signatory for  
J. G. Enterprises Ltd.

  
\_\_\_\_\_  
Jason Gordon

Dated at the <sup>OR</sup> City of ~~Surrey~~ VANCOUVER,  
Province of British Columbia  
this 10<sup>th</sup> day of ~~June~~ <sup>May</sup>, 2012.

  
\_\_\_\_\_  
Carolyn Rogers  
Superintendent of Real Estate  
Province of British Columbia