

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*  
S.B.C. 2004, c. 42  
AND  
IN THE MATTER OF  
CONDEX PROPERTY MANAGEMENT LTD.**

**CONSENT ORDER**

RESPONDENT: Condex Property Management Ltd.,  
Brokerage

DATE OF REVIEW MEETING: November 6, 2009

DATE OF CONSENT ORDER: November 20, 2009

CONSENT ORDER REVIEW COMMITTEE: W. Brown  
G. Martin (Chair)

ALSO PRESENT: R. Fawcett, Executive Officer  
D. Berger, Director, Legal Services  
J. Whittow, Q.C., Counsel for the Real  
Estate Council

**PROCEEDINGS:**

On November 6, 2009 the Consent Order Review Committee resolved to accept the Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver executed by Condex Property Management Ltd. as submitted, which was that Condex Property Management Ltd. be reprimanded. Further, Condex Property Management Ltd. is ordered to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,000.00 within sixty (60) days from the date of this Order.

**WHEREAS** an Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver was executed by Condex Property Management Ltd. and the Real Estate Council of British Columbia ("Council"), a copy of which is attached hereto.

**NOW THEREFORE**, the Council has made the following findings and orders the following penalties based on the Agreed Statement of Facts and Proposed Acceptance of Findings:

1. Condex Property Management Ltd. is reprimanded, as it committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* in that it provided strata management services to Strata Corporation VR222, VR563 and VR778 after January 1, 2008, without having in place a written service agreement in accordance with section 5-1 of the Council Rules, and without waiver from the client.
2. Condex Property Management Ltd. is ordered to pay enforcement expenses of this Consent Order to the Council in the amount of \$1,000.00 within sixty (60) days from the date of this Order.

If Condex Property Management Ltd. fails to comply with any of the terms of the Order set out above, the Council may suspend or cancel its licence, without further notice to it pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

Dated this 20th day of November, 2009 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“G. Martin”  
G. Martin  
Chair  
Consent Order Review Committee

Attch.

Files #08-008,011,066

**IN THE MATTER OF THE REAL ESTATE SERVICES ACT  
S.B.C. 2004, c. 42**

**IN THE MATTER OF**

***CONDEX PROPERTY MANAGEMENT LTD. (X028566)***

***AGREED STATEMENT OF FACTS,  
PROPOSED ACCEPTANCE OF FINDINGS AND WAIVER***

---

The following agreement has been reached between Condex Property Management Ltd. (“Condex”) and the Real Estate Council of British Columbia (the “Council”).

- A. Condex hereby consents to an Order to be made pursuant to section 43 of the *Real Estate Services Act* that it be reprimanded. Further, Condex agrees to pay enforcement expenses of this Consent Order to the Council in the amount of \$1000.00, to be paid within sixty (60) days from the date of the Order herein. Condex further consents to an Order that if it fails to comply with any of the terms of the Order set out above, the Council may suspend or cancel its license without further notice pursuant to section 43(3) and 43(4) of the *Real Estate Services Act*.
- B. As a basis for this Order, Condex acknowledges and agrees that the facts set forth herein are correct:
1. Condex has been licensed by the Council as a Strata Manager Since December 20, 2005.
  2. On January 1, 2006 the *Real Estate Services Act* came into force, and Council began the regulation of strata management services. Among the new requirements was section 5-1 of the Council Rules, which required service agreements to be in writing unless waived by the client, and include certain terms, including a termination date. The Council Rules required strata management service agreements to comply with section 5-1 of the Council Rules by January 1, 2008.
  3. Condex had been the manager for six strata councils in a Vancouver residential building complex known as “Arbutus Village” from the early 1990s. The written agreements in place between Condex and the Arbutus Village strata councils did not provide a fixed termination date. Among Condex’s clients on this type of arrangement were Strata Plan VR778, Strata Plan VR222 and Strata Plan VR563.
  4. As the agreements that were in place between Condex and its clients did not comply with the new Council Rules, Barbara Whitlock, managing broker for Condex, was aware that it was necessary to enter into a new form of agreement.
  5. In or around November 2007, the Strata Property Agents of BC (SPABC) prepared and circulated to its members a standard form of agreement (the “SPA Agreement”) which was designed to comply with the Council Rules regarding strata management service agreements. Condex received a copy of the SPA Agreement.
  6. On or about November 15, 2007, Condex sent letters to its clients, including Strata Plan VR778, Strata Plan VR222 and Strata Plan VR563, explaining the new requirements,

enclosing a proposed agreement in the form of the SPA Agreement and requesting that it be signed and returned to Condex within 30 days.

7. Condex's Arbutus Village clients, including Strata Plan VR778, Strata Plan VR222 and Strata Plan VR563, formed a committee composed of representatives of each strata council (the "Committee"). The Committee was to review the terms of the proposed agreement.

8. On February 1, 2008, VR222 wrote to Condex and stated that it was not ready to respond to Condex's proposal, but did not waive the requirement for a written contract.

9. The Committee also decided to evaluate property management services. It sought proposals from interested strata property managers, including Condex.

10. The process of review of the proposed agreement and the property management service providers became complex and prolonged. For example:

- a. approximately 40 changes to the form of agreement were requested by the Committee and the individual strata councils;
- b. relations between council members and between councils became strained;
- c. proposals and presentations to the Committee by potential new property managers took place in about May 2008; and
- d. Strata Plan VR222 had a Townhouse Section and a Highrise Section. After obtaining legal opinions and internal controversy, the two sections decided to contract separately for the provision of management services.

11. In about May, 2008, Condex and the Highrise section of Strata Plan VR222 entered into a new agreement.

12. In June, 2008, Condex gave written notice of termination of the existing agreement to the Townhouse section of Strata Plan VR222.

13. In August, 2008, Condex and Strata Plan VR778 entered into a new agreement.

14. Condex gave written notice and cancelled its agreement with Strata Plan VR563 in July, 2008.

15. Barbara Whitlock is authorized to sign this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver on behalf of Condex.

C. Proposed Acceptance of Findings and Waiver

1. Based on the Agreed Statement of Facts as outlined herein, and without making any admissions of liability, Condex is prepared to accept a finding by the Council’s Consent Order Review Committee that it committed professional misconduct within the meaning of section 35 of the *Real Estate Services Act* in that:
  - it provided strata management services to Strata Corporation VR222, VR563 and VR778 after January 1, 2008, without having in place a written service agreement in accordance with section 5-1 of the Council Rules, and without waiver from the client.
2. Condex hereby waives its right to appeal pursuant to section 54 of the *Real Estate Services Act*.
3. Condex acknowledges that they have a right to seek independent legal advice before signing this Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver.
4. Condex acknowledges and is aware that the Council will publish the Consent Order and penalty herein in its Report from Council and on the Council’s website.
5. Condex acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the *Real Estate Services Act*, to appeal any decision of the Council, including this Agreed Statement of Facts, Proposed Acceptance of Findings, and Waiver and Consent Order.
6. The Agreed Statement of Facts and Proposed Acceptance of Findings contained herein are made for the sole purpose of resolving a complaint being considered by the Council and for that purpose only. Such agreed statement of facts and proposed acceptance of findings cannot be used in any other proceeding of any kind.

\_\_\_\_\_  
 “Jean P. Whittow”  
**Jean P. Whittow, Q.C., Legal Counsel for**  
 the Real Estate Council of British Columbia

\_\_\_\_\_  
 “Barbara Whitlock”  
**Barbara Whitlock, for Condex Property**  
**Management Ltd.**

As to Part B only (Agreed Statement of Facts)

As to Parts A, B, C (Proposed Penalty, Agreed Statement of Facts, Proposed Acceptance of Findings and Waiver)

Dated 7 day of October, 2009

Dated 21 day of September, 2009.

