



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

-AND-

J. GORDON ENTERPRISES LTD.

-AND-

JASON GORDON

NOTICE OF HEARING

WHEREAS it appears to the Superintendent of Real Estate (the "Superintendent") that:

1. J. Gordon Enterprises Ltd. ("J.G. Enterprises") was incorporated in British Columbia on September 22, 2000. J.G. Enterprises' registered and records office is located at the 10th Floor, 595 Howe Street in Vancouver, British Columbia.
2. Jason Gordon ("Gordon") is a director and officer of J.G. Enterprises.
3. J.G. Enterprises is the named developer (the "Developer") of a development consisting of 54 strata lots, located in two buildings at 32850 and 32870 George Ferguson Way in Abbotsford, BC ("Ferguson Way" or the "Development").
4. On April 6, 2010, staff of the Superintendent ("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which was constructed and stratified prior to February 17, 1977 but where, after that date, the original strata plan was revoked and replaced by the Land Title Office ("LTO") following the addition of another building to the complex.

5. 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.
6. On April 28, 2010, the Developer filed a disclosure statement in respect of the Development (the "Disclosure Statement"). The Disclosure Statement disclosed the following information:
 - (a) J.G. Enterprises was the developer of Ferguson Way.
 - (b) Gordon was the sole director of J.G. Enterprises.
 - (c) The Development consisted of only a portion of the total number of strata lots which made up the strata plan.
 - (d) The strata plan contains 120 strata lots over three separate buildings.
 - (e) The Development is comprised of only 54 strata lots located in two of the buildings, civically addressed as 32850 and 32870 George Ferguson Way, Abbotsford, BC.
 - (f) The buildings in which the 54 strata lots which comprise the Development are located were built in 1976. The strata plan in respect of these two buildings was filed with the LTO on December 20, 1976.
 - (g) In 1992 a third building was constructed on the site and the original strata plan was cancelled and a new strata plan showing the units in all three buildings was deposited in the LTO.
 - (h) The Developer was the owner of all of the strata lots which comprised the Development save for strata lots 6, 13, 28, 28 [sic], 32, 26, 44, 48, 70 and 84, which had been owned by the Developer but were sold prior to the filing of the Disclosure Statement.

- (i) Strata lots 15, 26, 38, 45 and 57 were subject to contracts of purchase and sale which might complete prior to the filing of the Disclosure Statement.
7. 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.
 8. Despite Staff's request, the Developer never provided an undertaking confirming that all marketing had ceased as of May 20, 2010.
 9. On June 25, 2010, the Developer filed an amended disclosure statement (the "Amended Disclosure Statement"). In addition to addressing the deficiencies identified by Staff on May 13, 2010, the Amended Disclosure Statement disclosed the following information:
 - (a) The Developer was the registered owner of all of the strata lots which comprised the Development save for strata lots 6, 13, 15, 20, 22, 26, 28, 32, 35, 36, 38, 44, 45, 46, 48, 50, 57, 60, 62, 70, 77, 80, 82, 83 and 84 which were sold prior to the filing of the Amended Disclosure Statement; and
 - (b) Strata lot 56 was subject to a contract of purchase and sale, which sale might complete prior to the filing of the Amended Disclosure Statement.
 10. The following strata lots were sold prior to the filing of the Disclosure Statement on April 28, 2010, and thus were marketed in breach of sections 3 and 15 of the *Real Estate Development Marketing Act* (the "Act"):
 - (a) Strata lot 6 was sold pursuant to a contract of purchase and sale executed on March 15, 2010. Title was transferred on April 19, 2010.
 - (b) Strata lot 13 was sold pursuant to a contract of purchase and sale executed on February 25, 2010. Title was transferred on April 19, 2010.
 - (c) Strata lot 15 was sold pursuant to a contract of purchase and sale executed on April 10, 2010. Title was transferred on May 7, 2010.

- (d) Strata lot 20 was sold pursuant to a contract of purchase and sale executed on February 6, 2010. Title was transferred on April 15, 2010.
- (e) Strata lot 22 was sold pursuant to a contract of purchase and sale executed on March 29, 2010. Title was transferred on June 9, 2010.
- (f) Strata lot 26 was sold pursuant to a contract of purchase and sale executed on April 10, 2010. Title was transferred on May 7, 2010.
- (g) Strata lot 28 was sold pursuant to a contract of purchase and sale executed on February 24, 2010. Title was transferred on April 15, 2010.
- (h) Strata lot 32 was sold pursuant to a contract of purchase and sale executed on February 6, 2010. Title was transferred on April 14, 2010.
- (i) Strata lot 35 was sold pursuant to a contract of purchase and sale executed on April 14, 2010. Title was transferred on June 7, 2010.
- (j) Strata lot 36 was sold pursuant to a contract of purchase and sale executed on February 3, 2010. Title was transferred on April 15, 2010.
- (k) Strata lot 38 was sold pursuant to a contract of purchase and sale executed on April 7, 2010. Title was transferred on May 7, 2010.
- (l) Strata lot 44 was sold pursuant to a contract of purchase and sale executed on February 18, 2010. Title was transferred on April 14, 2010.
- (m) Strata lot 45 was sold pursuant to a contract of purchase and sale executed on March 22, 2010. Title was transferred on July 26, 2010.
- (n) Strata lot 46 was sold pursuant to a contract of purchase and sale executed on March 31, 2010. Title was transferred on May 27, 2010.
- (o) Strata lot 48 was sold pursuant to a contract of purchase and sale executed on March 18, 2010. Title was transferred on April 19, 2010.

- (p) Strata lot 50 was sold pursuant to a contract of purchase and sale executed on March 31, 2010. Title was transferred on May 27, 2010.
 - (q) Strata lot 57 was sold pursuant to a contract of purchase and sale executed on April 10, 2010. Title was transferred on May 7, 2010.
 - (r) Strata lot 60 was sold pursuant to a contract of purchase and sale executed on April 23, 2010. Title was transferred on June 10, 2010.
 - (s) Strata lot 62 was sold pursuant to a contract of purchase and sale executed on March 31, 2010. Title was transferred on May 27, 2010.
 - (t) Strata lot 70 was sold pursuant to a contract of purchase and sale executed on April 5, 2010. Title was transferred on May 4, 2010.
 - (u) Strata lot 77 was sold pursuant to a contract of purchase and sale executed on April 15, 2010. Title was transferred on May 28, 2010.
 - (v) Strata lot 82 was sold pursuant to a contract of purchase and sale executed on April 14, 2010. Title was transferred on June 19, 2010.
 - (w) Strata lot 83 was sold pursuant to a contract of purchase and sale executed on April 14, 2010. Title was transferred on June 19, 2010.
 - (x) Strata lot 84 was sold pursuant to a contract of purchase and sale executed on February 18, 2010. Title was transferred on April 14, 2010.
11. Of the aforementioned strata lots, the following were marketed and sold after Staff had advised counsel for the Developer, on April 9, 2010, that in a hypothetical case, mirroring the circumstances of the Development, a disclosure statement would be required: strata lots 15, 26, 35, 57, 60, 77, 82 and 83.
12. Strata lot 37 was sold pursuant to a contract of purchase and sale executed on June 11, 2010. Title was transferred on July 28, 2010. The sale of strata lot 37 occurred at a time when Staff had indicated that the Disclosure Statement was defective (per Staff's letter of May 13, 2010), and needed to be amended before marketing could continue. That amendment was not filed until June 25, 2010. Strata lot 37 was therefore marketed in breach of section 16(4) of the Act.

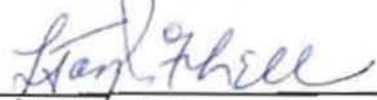
13. Pursuant to section 30 of the Act, the Superintendent, on finding that a development is or has been non-compliant, may do one or more of the following:
- (a) order the developer to cease or refrain from marketing one or more of the development units;
 - (b) order the developer to carry out a specified activity related to marketing;
 - (c) order the developer and/or the director of the developer company to pay amounts in accordance with section 31 [recovery of enforcement expenses];
 - (d) order the developer and/or the director of the developer company to pay an administrative penalty in an amount of
 - (i) not more than \$50,000, in the case of a corporation,
 - (ii) not more than \$25,000, in the case of an individual.

AND TAKE NOTICE that a hearing will be held at 1200 – 13450 102nd Avenue, Surrey, British Columbia commencing at **10:00 a.m.** on **February 7, 8 and 9, 2012** to allow J.G. Enterprises and Gordon an opportunity to be heard before the Superintendent determines:

1. what orders to make pursuant to section 30 of the Act, based upon the findings of fact contained in the Order; and
2. what other orders may be appropriate to make in the circumstances.

AND TAKE NOTICE that J.G. Enterprises and Gordon may be represented by counsel at the hearing and may make representations and lead evidence. J. G. Enterprises and Gordon are requested to advise of their intention to attend the hearing by writing to the Superintendent at 1200 – 13450 102nd Avenue, Surrey, British Columbia, at least five days before the date of the hearing;

Dated at Surrey, British Columbia, this 29th day of August, 2011.



L. Jay Mitchell
Acting Superintendent of Real Estate
Province of British Columbia

To: J. Gordon Enterprises Ltd.
10th Floor – 565 Howe Street
Vancouver, BC
V6C 2T5

Jason Gordon

