

IN THE MATTER OF THE REAL ESTATE SERVICES ACT

- AND -

BELLEVUE RENTAL AGENCY LTD.

-AND-

CAMERON FAZLI

-AND-

HAYLEY FRANCES WINTER

**ORDERS UNDER SECTIONS 51 AND 49 OF
THE REAL ESTATE SERVICES ACT**

UPON REVIEWING the submissions and exhibits contained in the Investigation Report prepared by the staff of the Superintendent of Real Estate, I am of the opinion that:

1. On September 11 and November 24, 2008, the Office of the Superintendent of Real Estate (the "Superintendent") received two separate complaints that Bellevue Rental Agency ("Bellevue") was providing rental property management services without being licensed under the *Real Estate Services Act*, S.B.C. 2004, c.42 ("*RESA*").
2. Bellevue was registered as a company in the Province of British Columbia on September 8, 2008. The registered and records office for Bellevue is #202 – 1500 Marine Drive, North Vancouver, British Columbia. Bellevue's directors are Cameron Fazli ("Fazli") and Hayley Frances Winter ("Winter").
3. The Real Estate Council of British Columbia (the "Council") has confirmed that Bellevue, Fazli and Winter are not licensed to provide real services in the Province of British Columbia.
4. Section 1 of *RESA* provides the following definitions:

 "providing", in relation to real estate services, includes

 (a) offering to provide such services,

- (b) holding oneself out as a person who provides such services, or
- (c) soliciting for the purposes of the provision of such services;

"real estate" means

- (a) real property,
- (b) regardless of whether it is or is not an interest in real property, a cooperative interest, shared interest in land or time share interest, as these are defined in the Real Estate Development Marketing Act, and
- (c) a right in relation to real property that is defined by regulation to be real estate,

but does not include a right in relation to real property that is excluded by regulation;

"real estate services" means

- (a) rental property management services,
- (b) strata management services, or
- (c) trading services;

"remuneration" includes any form of remuneration, including a commission, fee, gain or reward, whether the remuneration is received, or is to be received, directly or indirectly;

"rental property management services" means any of the following services provided to or on behalf of an owner of rental real estate:

- (a) trading services in relation to the rental of the real estate;
- (b) collecting rents or security deposits for the use of the real estate;
- (c) managing the real estate on behalf of the owner by
 - (i) making payments to third parties,
 - (ii) negotiating or entering into contracts,

- (iii) supervising employees or contractors hired or engaged by the owner, or
- (iv) managing landlord and tenant matters

but does not include an activity excluded by regulation;

“rental real estate” means real estate that is or is intended to be rented or leased;

“trading services” means any of the following services provided to or on behalf of a party to a trade in real estate:

- (a) advising on the appropriate price for the real estate;
- (b) making representations about the real estate;
- (c) finding the real estate for a party to acquire;
- (d) finding a party to acquire the real estate;
- (e) showing the real estate;
- (f) negotiating the price of the real estate or the terms of the trade in real estate;
- (g) presenting offers to dispose of or acquire the real estate;
- (h) receiving deposit money paid in respect of the real estate

but does not include an activity excluded by regulation;

5. Section 3(1) of *RESA* states as follows:

Requirement for licence to provide real estate services

“3(1) A person must not provide real estate services to or on behalf of another, for or in expectation of remuneration, unless the person is

- (a) licensed under this Part to provide those services, or
- (b) exempted by subsection (3) of the regulations from the requirement to be licensed under this Part in relation to the provision of those real estate services.”

6. The complaints received by the Superintendent alleged that Bellevue was advertising rental property management services on the internet.
7. Staff of the Superintendent (the "Staff") reviewed Bellevue's website located at www.vancouverrentalproperties.com. That website indicated the following:
 - (a) Bellevue operates from 2467 Bellevue Avenue, West Vancouver.
 - (b) Bellevue is "a full service accommodations rental and property management firm in the lower mainland."
 - (c) Bellevue's "rental portfolio showcases a vast array of diversified rentals accommodations. Bellevue Rental Agency represents tenants and landlords applying for and renting various types of properties..."
 - (d) Bellevue assists prospective tenants in finding rental property. Bellevue's staff "is available to schedule commitment-free viewings" and answer all questions about "the latest properties, floor plans and communities." Services for tenants are free. A "tenant application" is available on the website for prospective tenants to complete.
 - (e) Bellevue "provides a leasing service for landlords who are interested in managing their own investment properties. Acting as a rental agent, [Bellevue's] service revolves around connecting [landlords] with credible tenants and then passing over the property management to [the property owner]." Bellevue provides a free market evaluation of owners' property, strategically markets it, lists it on Bellevue's website and posts advertisements in local community newspapers and magazines. Bellevue conducts showings for interested tenants, screens prospective tenants, and completes all documents "in full compliance with the Residential Tenancy Act of British Columbia."
8. On December 8, 2008, a member of the Staff sent a pretext email to Bellevue through the "contact us" portion of Bellevue's website. In that email, Staff advised that he had a condominium he wished to rent out.
9. On December 9, 2008, Staff received a response from Fazli which read, in part, as follows:

"We do not do monthly property management, we are just simply a rental agency. Our services are taking photos of your property, advertising the unit, hold the showings, and securing the ideal tenant. We do reference checks and credit checks using Equifax.

We charge a \$200 registration fee + half of the 1st months rent for a 1 year lease. The registration fee is to come take the pictures, load it onto our website, advertising it online and for doing credit checks on potential tenants. We do not charge monthly fees or advertising costs. We work with many different relocation companies around the lower mainland and have not had any problems with any tenants..."

10. As of January 5, 2009, Bellevue's website had 44 rental property listings.

AND WHEREAS I find that:

1. Neither Bellevue, Fazli nor Winter is licensed under *RESA* to provide real estate services within the province of British Columbia. A license is required pursuant to section 3 of *RESA* for a person to provide real estate services to or on behalf of another.
2. Real estate service under the *RESA* includes rental property management services. By acting as an agent for property owners, showing rental properties, advertising rental properties and preparing contracts, Bellevue, Fazli and Winter are conducting rental property management activities for which a license is required.
3. Neither Bellevue, Fazli nor Winter are exempted from the requirement to be licensed by subsection 3(3) of *RESA*, nor are they exempted from the requirement to be licensed by the Regulations.
4. Bellevue, Fazli and Winter are engaging in real estate services for which a license under *RESA* is required, although neither of them have the required license.

I THEREFORE CONSIDER THAT Bellevue, Fazli and Winter are conducting themselves in a manner that would enable me to make an order under section 49 of *RESA*.

I AGREE with Staff that a hearing would require approximately three witnesses and would take approximately three days to complete, and could not be held for at least six months due to scheduling of parties, witnesses, counsel and the hearing officer.

I FIND that the length of time that would be required to hold a hearing in order to make an order under section 49 of *RESA* would be detrimental to the due administration of *RESA* given that it would likely result in further non-compliance with the provisions of *RESA*. This is of particular concern given the 43 properties currently advertised for rent on Bellevue's website when neither Bellevue, nor its directors, are licensed. Continued non-compliance would harm the reputation of the British Columbia real estate industry and would be detrimental to the public interest.

I AM FURTHER OF THE OPINION that it is in the public interest to make a summary order under section 51 of *RESA* so that the public is protected against further non-compliance with *RESA*.

I THEREFORE ORDER, pursuant to sections 51(2)(a) and 49(2)(a) of *RESA*, that Bellevue, Fazli and Winter:

Cease and desist conducting, directly or indirectly, real estate services including rental property management services, in British Columbia, effective immediately.

TAKE NOTICE that Bellevue, Fazli and Winter may appeal this Order to the Financial Services Tribunal under section 54(1)(e) of *RESA*, or require a hearing before the Superintendent under sections 51(3) and 45(6) of *RESA*.

Dated at the City of Surrey, in the
Province of British Columbia
this 5th day of January, 2009.



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

TO: Bellevue Rental Agency Ltd.

[REDACTED]
North Vancouver, BC
[REDACTED]

Cameron Fazli
[REDACTED]
[REDACTED]
[REDACTED]

Hayley Frances Winter
[REDACTED]
[REDACTED]
[REDACTED]

Real Estate Council of British Columbia
#900 – 750 West Pender Street
Vancouver, BC
V6C 2T8