

THE REAL ESTATE COUNCIL OF BRITISH COLUMBIA
IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
SBC 2004, c 42 as amended

AND

IN THE MATTER OF

PETER CHRISTOPHER DOLECKI
(151513)

CONSENT ORDER

RESPONDENT: Peter Christopher Dolecki, Representative, 596373 B.C. Ltd. dba RE/MAX Westcoast

DATE OF CONSENT ORDER: November 19, 2020

CONSENT ORDER REVIEW COMMITTEE: Y. Amlani
R. Hanson
B. Chisholm

COUNSEL: Catherine Davies, Legal Counsel for the Real Estate Council of BC
Kelly Murray, Legal Counsel for the Respondent

PROCEEDINGS:

On November 19, 2020, the Consent Order Review Committee ("CORC") resolved to accept the Consent Order Proposal (the "Proposal") submitted by Peter Christopher Dolecki ("Mr. Dolecki").

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Mr. Dolecki.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that Mr. Dolecki committed conduct unbecoming within the meaning of section 35(2) [35(2)(b) and 35(2)(c)] of the *Real Estate Services Act* ("RESA"), pursuant to section 43 of the RESA the CORC orders that:

1. Mr. Dolecki's licence be suspended for two (2) months;
2. Mr. Dolecki be prohibited from acting as an unlicensed assistant during the licence suspension period;
3. Mr. Dolecki pay a discipline penalty to the Council in the amount of \$25,000 within ninety (90) days from the date of this Order;

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4. Mr. Dolecki, at his own expense, register for and successfully complete the Trading Services Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia in the time period as directed by the Council;
 5. Mr. Dolecki pay enforcement expenses to the Council in the amount of \$1,500 within sixty (60) days from the date of this Order.

If Mr. Dolecki fails to comply with any term of this Order, the Council may suspend or cancel his licence without further notice to his, pursuant to sections 43(3) and 43(4) of the RESA.

Dated this 19th day of November, 2020 at the City of Vancouver, British Columbia.

ON BEHALF OF THE CONSENT ORDER REVIEW COMMITTEE

“Yasin Amlani”

Yasin Amlani
Consent Order Review Committee

Attch.

**IN THE MATTER OF THE *REAL ESTATE SERVICES ACT*
SBC 2004, c 42 as amended**

AND

IN THE MATTER OF

**PETER CHRISTOPHER DOLECKI
(151513)**

CONSENT ORDER PROPOSAL BY PETER CHRISTOPHER DOLECKI

BACKGROUND AND FACTS

This Consent Order Proposal (the "Proposal") is made by Peter Christopher Dolecki ("Mr. Dolecki") to the Consent Order Review Committee ("CORC") of the Real Estate Council of BC (the "Council") pursuant to section 41 of the *Real Estate Services Act* ("RESA").

For the purposes of the Proposal, Mr. Dolecki and the Council have agreed upon the following facts:

1. Mr. Dolecki (151513) has been licensed as a trading representative since 2007.
2. Mr. Dolecki was at all relevant times licensed as a trading representative with RE/MAX Westcoast (the "Brokerage").
3. This matter arises out of Mr. Dolecki's actions regarding the rental of a property located at XXXX 162 St. Surrey, BC (the "Property") during the period October 2016 – February 2017.
4. On January 17, 2016, Mr. Dolecki, along with his wife KD as tenants, entered into a residential tenancy agreement with the owner ("WL") as landlord for the rental of the Property for a 12-month term ending January 31, 2017 and for a monthly rental payment of \$4,500 due on the 1st day of each month (the "Agreement").
5. Mr. Dolecki advised Council that at the time of renting the Property WL wanted a long-term lease of two to three years.
6. Section 9 of the Agreement stated as follows:

9. ASSIGN OR SUBLET

1) The tenant may assign or sublet the rental unit to another person with the written consent of the landlord. If this tenancy is for a fixed length of 6 months or more, the landlord must not unreasonably withhold consent. Under an assignment a new tenant must assume all of the rights and obligations under the existing tenancy agreement, at the same rent. The landlord must not charge a fee or receive a benefit, directly or indirectly, for giving this consent.

7. In the Fall of 2016, Mr. Dolecki moved his family out of the Property as he found a more suitable property for his family to rent.
8. Mr. Dolecki told the Council he had attempted to reach WL, who lived overseas, several times to discuss his move, but says his calls and voicemails were not returned. Mr. Dolecki says he also attempted to reach WL's local representative and again his attempts were unsuccessful.
9. In or around October 2016, Mr. Dolecki advertised the Property for rent on Craigslist.
10. Mr. Dolecki states that he was unable to obtain WL's consent to lease the Property. He told the Council that in wanting to meet the terms of the lease, he thought he would be assisting WL by finding a new tenant for the Property.
11. The Craigslist advertisement was seen by SS and CS (the "Tenants") who were looking for a home to rent for their young family as they were moving to BC from the United States due to SS's work relocation by his employer, the U.S. government.
12. The Tenants contacted Mr. Dolecki to inquire about the Property. They spoke over the phone and exchanged emails.
13. On November 2, 2016, the Tenants attended at the Property for a viewing.
14. Upon arriving at the Property, the Tenants saw Mr. Dolecki's white pick-up truck vehicle displaying his name and Brokerage information.
15. The Tenants told the Council that Mr. Dolecki told them that the Property was an investment property and that he had recently moved to another home in White Rock, BC. He provided them detailed information about the Property and the neighborhood. The Tenants state that from their interactions with Mr. Dolecki at the viewing, they were under the impression that Mr. Dolecki was the owner of the Property.
16. Mr. Dolecki told the Council that he never told the Tenants he was the owner of the Property, though he says he did refer to the Property as an investment property. He agrees that he gave them detailed information about the Property and the neighborhood, as he and his family lived in the Property and did consider it their home.
17. The Tenants decided they wanted to rent the Property.
18. Mr. Dolecki prepared a residential tenancy agreement dated November 6, 2016 in which the Tenants were identified as tenants of the Property and Mr. Dolecki was identified as the landlord. Mr. Dolecki told the Council that he recorded himself as landlord as it would be a sublease arrangement. He admits that he did not ensure that the Tenants understood he was acting as landlord in a sublease arrangement and was not the owner of the Property.
19. The residential tenancy agreement had a 12-month term beginning December 1, 2016 and ending November 30, 2017, and a monthly rental payment of \$5,000.
20. Mr. Dolecki states that he attempted to contact WL to advise that he would be vacating the Property but agrees that he did not advise WL that he had leased the Property to the Tenants.
21. On November 14, 2016, the Tenants paid Mr. Dolecki a security deposit in the amount of \$2,500.

22. On November 21, 2016, the Tenants paid Mr. Dolecki \$5,000 in respect of rent for December 2016.
23. On or around December 1, 2016, the Tenants moved into the Property.
24. On December 14, 2016, the Tenants paid Mr. Dolecki \$2,927 in respect of rent for January 2017. By agreement with Mr. Dolecki, the Tenants had reduced the monthly rent amount of \$5,000 by the amount of cost of repairs they had to undertake on the Property.
25. On January 21, 2017, the Tenants paid Mr. Dolecki \$5,000 in respect of rent for February 2017.
26. Mr. Dolecki did not deliver to WL the payments received from the Tenants in connection with their lease of the Property.
27. On January 30, 2017, the Tenants discovered a "10 Day Notice to End Tenancy for Unpaid Rent or Utilities" form taped to the front door of the Property (the "Eviction Notice").
28. The Eviction Notice stated that Mr. Dolecki was in arrears of rent payments in the amount of \$29,250 and was required to vacate the premises by February 10, 2017.
29. On or around February 2, 2017, the Tenants contacted Mr. Dolecki who took a copy of the Eviction Notice and told the Tenants to not worry and that he would sort it out.
30. The Tenants then contacted licensee LW who WL had instructed to issue the Eviction Notice. LW told the Tenants that Mr. Dolecki was WL's tenant of the Property and was in arrears of rent.
31. The Tenants attempted to remain as tenants of the Property but were advised that WL wanted the Property vacant by February 10, 2017 as per the Eviction Notice.
32. The Tenants moved out of the Property by February 10, 2017. On that date the locks were changed and a "for sale" sign was posted on the front lawn of the Property.
33. Mr. Dolecki paid the Tenants \$2,500 representing reimbursement for the security deposit payment, and later also paid them an additional \$2,500 representing partial reimbursement for the February rent payment.
34. With respect to the Eviction Notice, Mr. Dolecki told the Council that :
 - a. the Property was vacant prior to his family's occupation of the Property;
 - b. at the time he occupied the Property, he had an arrangement with WL that he would be reimbursed by way of either direct payment or rent reduction for repairs and maintenance undertaken on the Property;
 - c. this arrangement carried on for several months without incident;
 - d. he was owed by WL for repairs and maintenance to the Property by an amount that was close to or substantially equivalent to the amount of alleged arrears.
35. WL has not pursued Mr. Dolecki for the alleged arrears owing.
36. The Property was sold shortly after the Tenants moved out.

37. On March 2, 2017, the Council received a complaint from SS.
38. A Notice of Discipline Hearing was issued on February 25, 2020 and served on Mr. Dolecki.
39. Mr. Dolecki has no prior discipline with the Council.
40. Since June 8, 2017, Mr. Dolecki's license has been subject to conditions imposed by the Council pursuant to its powers under section 15 of the RESA. The complaint relating to this matter was a factor in the imposition of conditions. The conditions were imposed with Mr. Dolecki's consent and he has been fully compliant with them since their inception.

PROPOSED FINDINGS OF MISCONDUCT

For the sole purposes of the Proposal and based on the facts outlined herein, Mr. Dolecki proposes the following findings of misconduct be made by the CORC:

1. Mr. Dolecki committed conduct unbecoming a licensee within the meaning of section 35(2) of the RESA in connection with the rental of a residential property located at XXXX 162 Street in Surrey, BC (the "Property") when he:
 - a. as the existing tenant, leased the Property to new tenants without first obtaining the consent of the owner to lease the Property;
 - b. prepared a residential tenancy agreement dated November 6, 2016 in which he was identified as landlord of the Property, without ensuring that the tenants understood that he was acting as landlord by sublease and was not the owner of the Property;
 - c. received payments from the tenants in the form of a security deposit and rent payments, and failed to deliver those payments to the owner of the Property, contrary to section 35(2)(b) [*undermines public confidence in the real estate industry*] and section 35(2)(c) [*brings the real estate industry into disrepute*] of the RESA.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings of Misconduct, Mr. Dolecki proposes that the Notice of Discipline Hearing in this matter be resolved through the following Orders being made by the CORC, pursuant to section 43 of the RESA:

1. Mr. Dolecki's licence be suspended for two (2) months;
2. Mr. Dolecki be prohibited from acting as an unlicensed assistant during the licence suspension period.
3. Mr. Dolecki pay a discipline penalty to the Council in the amount of \$25,000 within ninety (90) days from the date of this Order.
4. Mr. Dolecki, at his own expense, register for and successfully complete the Trading Services Remedial Education Course as provided by the Real Estate Division, Sauder School of Business at the University of British Columbia in the time period as directed by the Council.

5. Mr. Dolecki pay enforcement expenses to the Council in the amount of \$1,500 within sixty (60) days from the date of this Order.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. Mr. Dolecki acknowledges and understands that the Council may refer or decline to refer the Proposal to the CORC. If the Proposal is referred to the CORC, it may be accepted or rejected by the CORC. If the Proposal is rejected by the CORC, the matter may be referred to a disciplinary hearing.
2. Mr. Dolecki acknowledges that he has been urged and given the opportunity to seek and obtain independent legal advice with respect to the disciplinary process, the allegations contained in the Notice of Discipline Hearing, and the execution and submission of the Proposal to the CORC; and, that he has obtained independent legal advice or has chosen not to do so, and that he is making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. Mr. Dolecki acknowledges and is aware that the Council will publish the Proposal and the Consent Order or summaries thereof in its Report from Council newsletter, on the Council's website, on CanLII, a website for legal research and in such other places and by such other means as the Council in its sole discretion deems appropriate.
4. Mr. Dolecki acknowledges and is aware that the Superintendent of Real Estate has the right, pursuant to section 54 of the RESA, to appeal any decision of the Council, including any Consent Order made by the Council in relation to this matter.
5. Mr. Dolecki hereby waives his right to appeal pursuant to section 54 of the RESA.
6. The Proposal and its contents are made by Mr. Dolecki for the sole purpose of resolving the Notice of Discipline Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 41(5) of the RESA, the Proposal and its contents may not be used without the consent of Mr. Dolecki in any civil proceeding with respect to the matter.

"Peter Christopher Dolecki"

PETER CHRISTOPHER DOLECKI

Dated 19 day of October, 2020