



Real Estate Council of Ontario

DISCIPLINE DECISION

**IN THE MATTER OF A DISCIPLINE HEARING HELD PURSUANT TO THE
*REAL ESTATE AND BUSINESS BROKERS ACT, 2002, S.O. 2002, c. 30, Sch. C***

BETWEEN:

REGISTRAR UNDER THE *REAL ESTATE AND BUSINESS BROKERS ACT, 2002*

- AND-

LOUIE CORNACCHIA

Subject to Rule 4.02 of the Discipline and Appeals Committee Rules of Practice (*REBBA 2002*), I, the Chair of the Discipline Committee (*REBBA 2002*) have reviewed and considered the Agreed Statement of Facts and Recommended Penalty together with the Waiver of Hearing submitted by the Parties to this proceeding and provide the following Order:

DATE OF DECISION: February 16, 2010

FINDINGS: In violation of Sections 3, 21(2) and 38 of the *REBBA 2002* Code of Ethics.

ORDER: Fine of \$4,000.00 payable to RECO within 90 days of sending this decision.

WRITTEN REASONS:

REASONS FOR DECISION

INTRODUCTION

This matter proceeded on the basis of an Agreed Statement of Facts and Penalty and Waiver of Hearing, pursuant to Rule 4.02 of the Rules of Practice (*REBBA 2002*).

The Agreed Statement of Facts and Penalty read:

AGREED STATEMENT OF FACTS AND PENALTY

1. Mr. Louie Cornacchia (“Cornacchia”) is a Member of the Real Estate Council of Ontario (“RECO”) and registered as a salesperson pursuant to the Real Estate and Business Brokers Act (the “Act”).
2. At all material times, Cornacchia was registered with Brokerage A in City A.
3. Buyer B (“Complainant”), a consumer, purchased a condominium located at 1-A Street in City B (the “property”), which was co-owned by Cornacchia. The buyer’s sales representative was Buyer Representative B who is also registered under the REBBA 2002.
4. Buyer Representative B was at all material times, registered with Brokerage B, a brokerage under the REBBA 2002.
5. On or about February 7, 2008, RECO received a complaint from the Complainant regarding Cornacchia.
6. On or about January 5, 2008 an Offer by the Complainant to purchase the property was accepted by Cornacchia. The Agreement of Purchase and Sale (the “APS”) describes the parking space as “#48/Level 1”.
7. The MLS listing information for the property indicates the garage/parking is “undergrnd/1” and also references “surface” parking.
8. The Complainant, at a showing of the property with Buyer Representative B, was shown an underground parking spot numbered 48, and was advised that was the spot attached to the property.
9. Upon completion, the Complainant couldn’t get access to the underground garage and called Buyer Representative B as she had no pass/key to access the garage. Upon going downstairs she found a car parked in spot #48.
10. The Complainant states that Buyer Representative B called Cornacchia and was told the parking spot was outside. The Complainant says that she feels unsafe with

surface parking and wouldn't have purchased the property if she knew it had outdoor parking.

11. Buyer Representative B submitted a written statement to RECO on March 12, 2008. She states that the agreement was conditional on solicitor review of the Status Certificate. Buyer Representative B claims that the Complainant called her the day the Status Certificate was due and advised that her lawyer had reviewed it and it was okay.
12. Buyer Representative B states that she was led to believe that the Complainant would be getting an underground parking spot and that she was not advised of the truth until after closing.
13. Cornacchia provided RECO with his written reply on April 7, 2008, in which he states that he did check off "surface" on the listing to indicate the location of the parking spot and also checked off "garage" to indicate that there was a garage in the condominium complex.
14. Cornacchia states that no one asked him the location of the parking spot, and that he had offered to meet the Complainant and Buyer Representative B on one of their visits to the property however the scheduling didn't work for him and the visit continued in his absence.
15. Cornacchia claims that he had no reason to believe that there was a problem until the date of completion. He confirms receipt of Buyer Representative B's call on the date for completion, when she inquired if the parking was underground. He states that he advised it was surface parking and that Buyer Representative B commented "oops I missed that" and further that her client wouldn't be happy.
16. Such other facts as may arise prior to the hearing and the Registrar, REBBA 2002, may advise thereof.

It is alleged that Cornacchia acted unprofessionally when he:

1. Completed the MLS listing information in a way which was not clear as to the location of the parking spot or type.
2. Completed the APS in a way which was unclear as to the location and/or type of parking spot.

It is alleged that Cornacchia has breached the following Sections of the REBBA Code of Ethics:

Section 3 – Fairness, Honestly, Etc.

A registrant shall treat every person the registrant deals with in the course of a trade in real estate fairly, honestly and with integrity.

Section 21 – Material Facts

(2) A broker or salesperson who has a customer in respect of the acquisition or disposition of a particular interest in real estate shall, at the earliest practicable opportunity, disclose to the customer the material facts relating to the acquisition or disposition that are known by or ought to be known by the broker or salesperson.

Section 38 – Error, Misrepresentation, Fraud, etc.

A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in real estate.

JOINT SUBMISSION AS TO PENALTY

RECOMMENDED PENALTY:

Louie Cornacchia be Ordered to pay a penalty of \$4,000.00 within 90 days of the decision of the Discipline Committee.

By initials below, I, Louie Cornacchia, acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions.

[Respondent's Initials]

By initials below, I, Louie Cornacchia, agree, understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

[Respondent's Initials]

By initials below, I, Louie Cornacchia, acknowledge that I was aware of my right to be represented by Counsel or agent in this matter.

[Respondent's Initials]

Accordingly, the Agreed Statement of Facts and Joint Submission as to Penalty will be heard at RECO Chambers on a date chosen by the Real Estate Council of Ontario. Louie Cornacchia should contact RECO for the date this matter will be heard and advise whether they wish to attend.

Louie Cornacchia acknowledges that he was advised prior to signing this document that he has a right to be represented by legal counsel or an agent in this matter.

[The Agreed Statement was duly signed by the Parties.]

DECISION OF THE CHAIR

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee (*REBBA 2002*) concluded that the Respondent breached Sections 3, 21(2) and 38 of the *REBBA 2002* Code of Ethics. The Chair of the Discipline Committee (*REBBA 2002*) is also in agreement with the joint submission of the Parties as to penalty and accordingly makes the following order:

Louie Cornacchia be Ordered to pay a Fine of \$4,000.00 payable to RECO within 90 days of sending this decision.