

IN THE MATTER OF
THE REAL ESTATE ACT, C. R-1.3
AND
IN THE MATTER OF BRIDGETTE CARL

**DECISION OF THE SASKATCHEWAN REAL ESTATE COMMISSION AND
CONSENT ORDER**

Commission File: #2011-14A

Before: A Saskatchewan Real Estate Commission Hearing Committee
comprised of the following:

Randall Touet - Chairperson
Dave Hepburn
Paul Jaspar

Date: October 28, 2014

CHARGE and ADMISSION OF MISCONDUCT:

The registrant is charged with and is admitting to professional misconduct as follows:

Count 1:

That, contrary to section 39(1)(c) of *The Real Estate Act*, Ms. Bridgette Carl breached Saskatchewan Real Estate Commission Bylaw 702 by failing to protect and promote the interests of her client.

Count 2:

That, contrary to section 39(1)(c) of *The Real Estate Act*, Ms. Bridgette Carl breached Saskatchewan Real Estate Commission Bylaw 715 by failing to, prior to obtaining an offer to purchase on a property from a client, take reasonable steps to discover facts pertaining to the property that a prudent registrant would take in order to fulfil the obligation to avoid error, misrepresentation or concealment of pertinent facts.

LEGISLATION:

Section 39(1)(c) of *The Real Estate Act* states: “Professional misconduct is a question of fact, but any matter, conduct or thing whether or not disgraceful or dishonourable is professional misconduct within the meaning of this *Act*, if...it is a breach of this *Act*, the regulations or the bylaws or any terms or restrictions to which the registration is subject.”

Bylaw 702 states: “A registrant shall protect and promote the interests of his or her client. This primary obligation does not relieve the registrant from the obligation of dealing fairly with all other parties to the transaction.”

Bylaw 715 states: “Prior to obtaining an offer to purchase on a property from a client, a registrant shall take reasonable steps to discover facts pertaining to the property that a prudent registrant would take in order to fulfil the obligation to avoid error, misrepresentation or concealment of pertinent facts.”

FACTS:

In accordance with subsection 9(4) of *The Real Estate Regulations* (“the Regulations”), the Hearing Committee accepts Bridgette Carl’s Statement of Facts, which includes the following relevant points:

1. Ms. Carl has been continuously registered as a salesperson under the provisions of *The Real Estate Act* in the Province of Saskatchewan with the Saskatchewan Real Estate Commission since January 31, 2007.
2. Ms. Carl is presently registered under the provisions of *The Real Estate Act* as a salesperson with Jonathan Lee Bueckert Enterprises Ltd. o/a Century 21 Broadway Park Realty.
3. In or about June of 2008, Ms. Carl began representing a couple. At the time, she was registered with Royal LePage Premier Realty.
4. Ms. Carl assisted the couple in viewing and eventually placing an offer on a residence in Yorkton, Saskatchewan (“the Property”).
5. Ms. Carl measured the interior rooms and compared those measurements with those on the listing documents.
6. Ms. Carl consulted the Saskatchewan Assessment Management Agency (“SAMA”) Profile, but accepted the measurements provided by the listing agent who, at the time of the sale, was registered with Royal LePage Premier Realty.

7. The couple purchased the Property on or about July 9, 2008 for \$127,500.
8. Ms. Carl is aware of the following and believes the same to be true:
 - a) That in or about March of 2011, one of the buyers had approached a salesperson registered with Re/Max Blue Chip Realty to list the Property for sale.
 - b) On or about March 7, 2011, that same salesperson consulted the SAMA Profile and reported to the prospective buyer that the stated size of the Property was smaller than the approximate size contained in the 2008 listing.
 - c) On or about March 8, 2011, the same salesperson attended at the Property, measured the premises and stated that the Property was 676 square feet.
9. Ms. Carl was aware of a discrepancy between the property sizes listed on the SAMA Profile and the MLS Listing prepared by the listing agent, but did not take steps to independently establish the correct size of the Property, choosing instead to accept the approximate size stated in MLS Listing.

REASONS:

The Hearing Committee, the Investigation Committee and Ms. Carl considered the following as relevant in agreeing to issue the within consent order:

1. The Investigation Committee's position is that failing to physically measure the property and instead rely on third party information, such as the MLS listing and the SAMA profile for the property, is a failure to promote and protect the interests of clients and to take reasonable steps to discover facts pertaining to the property.
2. It is a registrant's responsibility to verify all of the facts related to the property with which they are dealing. It is not sufficient to rely on information from other sources, particularly when the physical measurements are easily obtained. The difference in square footage was significant, approximately 200 square feet on a 676 square foot house.
3. Mr. Carl has no previous complaint or sanction history.
4. Costs of this matter are not sought against Ms. Carl as she has been cooperative throughout the investigation and discipline process. Ms. Carl has raised a concern with her ability to pay the fines in one lump sum, so the agreed order below sets out staged payments.

CONSENT ORDER:

In accordance with *The Real Estate Act*, its Regulations, and the Commission Bylaws, the Hearing Committee, with the consent of the Salesperson, Bridgette Carl, and the Investigation Committee of the Saskatchewan Real Estate Commission, it is hereby ordered as follows:

1. With respect to Count 1, the charge of professional misconduct contrary to 39(1)(c) of *The Real Estate Act* for breach of Saskatchewan Real Estate Commission Bylaw 702:
 - a. Bridgette Carl shall receive an order of reprimand for the violation of Bylaw 702;
 - b. Bridgette Carl shall, prior to January 15, 2015, pay to the Saskatchewan Real Estate Commission a \$1,000.00 fine for the said violation of the *Act*; and
 - c. Bridgette Carl's registration shall be suspended if she fails make payment as set out above.
2. With respect to Count 2, the charge of professional misconduct contrary to 39(1)(c) of *The Real Estate Act* for breach of Saskatchewan Real Estate Commission Bylaw 715:
 - a. Bridgette Carl shall receive an order of reprimand for the violation of Bylaw 715;
 - b. Bridgette Carl shall pay to the Saskatchewan Real Estate Commission a \$2,000.00 fine for the said violation of the *Act*, as follows:
 - i. \$1,000 to the Saskatchewan Real Estate Commission prior to February 28, 2015;
 - ii. A further \$1,000 to the Saskatchewan Real Estate Commission prior to April 15, 2015;
 - c. Bridgette Carl's registration shall be suspended if she fails to make payment as set out above.
3. There shall be no order as to costs.

Dated at Saskatoon, Saskatchewan this 28th day of October, 2014.

"Randy Touet",
Hearing Committee Chairperson