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IN THE MATTER OF

*THE REAL ESTATE AGENTS ACT*  
S.N.B. 2011, c. 215

- and -

IN THE MATTER OF  
**EXCELLENCE REALTY LTÉE/LTD**

**REASONS FOR DECISION AND ORDER**

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**ORDER OF THE DIRECTOR OF CONSUMER AFFAIRS**

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Date of Order: 19 May 2016

To: Claude Dumont, Director  
Excellence Realty Ltée/Ltd

**Claude Dumont**  
90, 50<sup>e</sup> Avenue  
Edmundston NB  
E3V 3G1

**Excellence Realty Ltée/Ltd**  
176, rue de l'Église  
Edmundston (N.-B.)  
E3V 1K2

IN THE MATTER OF  
*THE REAL ESTATE AGENTS ACT*

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IN THE MATTER OF  
**EXCELLENCE REALTY LTÉE/LTD**

**REASONS FOR DECISION**

**1. Background**

- [1] Excellence Realty Ltée/Ltd is licensed as a real estate agent (licence no. 114382), issued pursuant to the provisions of the New Brunswick *Real Estate Agents Act*.
- [2] The sole director of Excellence Realty Ltée/Ltd is Claude Dumont ("**Dumont**"). Dumont was licensed as a Manager, but that licence was cancelled in 2013 as he did not comply with an order of the New Brunswick Real Estate Association ("**NBREA**") to successfully complete certain educational requirements outlined in a disciplinary decision dated 13 December 2012.
- [3] The licensed Manager of record for Excellence Realty Ltée/Ltd is Daniel Levasseur ("**Levasseur**"), holding Manager's licence no. 136376.
- [4] On 02 May 2016, Levasseur contacted the Consumer Affairs Division of the Financial and Consumer Services Commission. He stated that he wished to immediately cancel his Manager's licence.
- [5] Levasseur's licence was cancelled on 02 May 2016, per his request.
- [6] As a result of this cancellation, on 10 May 2016, notice was sent to Excellence Realty Ltée/Ltd, via prepaid courier, that its Agent licence was suspended, pursuant to section 4 and subsection 10(2) of the New Brunswick *Real Estate Agents Act*, as it no longer had a licensed Manager.
- [7] The notice was delivered and signed for at Excellence Realty Ltée/Ltd's office located at 176 Church Street in Edmundston on 11 May 2016.

[8] In this notice, Excellence Realty Ltée/Ltd was informed that they would be provided an opportunity to be heard before the Consumer Affairs Director on 18 May 2016. The purpose of this was to provide Excellence Realty Ltée/Ltd the opportunity to inform the Director of its current status, as well as its intentions with regard to the suspended Agent's licence.

## 2. Opportunity To Be Heard Meeting

[9] The meeting was scheduled for 10:00 am, Wednesday 18 May 2016 at the offices of the Financial and Consumer Services Commission in Fredericton, NB.

[10] The meeting proceeded on 18 May 2016. At the meeting, legal counsel in the Enforcement Division and Compliance Staff of the Consumer Affairs Division presented their findings.

[11] No one from Excellence Realty Ltée/Ltd attended or participated at the meeting.

## 3. Analysis and Decision

[12] In determining whether suspending or canceling a licence is in the public interest, a review of the requirements of the Act and the alleged breaches is appropriate.

[13] The relevant portions of section 4 of the Act read as follows:

### ***Agent's licence***

4(1) *No licence shall be issued to an agent unless*

*(a) the agent meets the qualification requirements established by or in accordance with the regulations,*

*[...]*

4(2) *For the purposes of paragraph (1)(a), if an agent is a corporation, the following individuals shall meet the qualification requirements established by or in accordance with the regulations:*

*(a) if the agent's manager is an individual, the manager; or*

*(b) if the agent's manager is a corporation, the manager's nominee.*

[14] Subsection 10(2) of the Act reads as follows:

10(2) *The Director may suspend or cancel a licence if he or she is of the opinion it is in the public interest to do so.*

[15] The relevant portions of section 5 of the *General Regulation - Real Estate Agents Act* reads as follows:

5(1) *The qualification requirements for an agent's licence are:*

(a) *the applicant, or if a corporation its manager where the manager is an individual or its manager's nominee where the manager is a corporation, shall have successfully completed the educational programs and examinations required by the Association; and*

(b) *the applicant, or if a corporation its manager where the manager is an individual or its manager's nominee where the manager is a corporation, shall have worked as an agent, manager or salesman for at least two years during the five years preceding the date of application for the agent's licence.*

[16] Staff, upon the completion of their inspection, concluded that Excellence Realty Ltée/Ltd was not in compliance with subsection 4(2)(b) of the Act, nor with section 5 of the *General Regulation*, as

- a. Levasseur resigned as the Manager of Excellence Realty Ltée/Ltd. on 02 May 2016;
- b. To date, no new Manager has been named by Excellence Realty Ltée/Ltd.;
- c. At the time of the suspension, Excellence Realty Ltée/Ltd. had a number of active real estate listings and pending transactions;
- d. As no information has been provided with respect to the transfer of active listings and pending transactions, it would appear that Excellence Realty Ltée/Ltd. was continuing to trade in real estate, despite the suspension of its licence;
- e. Dumont is the only other individual involved with Excellence Realty Ltée/Ltd.;
- f. Dumont is not currently licensed under the *Real Estate Agents Act*; and
- g. Dumont cannot be the Manager as he does not meet the requirements of either paragraphs 5(1)(a) or 5(1)(b) of the *General Regulation*.

[17] The purpose of the meeting held on 18 May 2016 was in order to provide Dumont and Excellence Realty Ltée/Ltd the opportunity to present any information that may assist the Director of Consumer Affairs in determining whether it is in the public interest that Excellence Realty Ltée/Ltd continue to be licensed under the *Real Estate Agents Act*.

[18] The only information presented at the meeting was the information of Staff, as outlined in paragraph 15, above. It is therefore the only information upon which I can render a decision.

[19] I find therefore that there is evidence of continued non-compliance with both the *Real Estate Agents Act* and the *General Regulation*, based upon the following facts:

- a. The Agent licence of Excellence Realty Ltée/Ltd is currently suspended;
- b. Excellence Realty Ltée/Ltd currently has no licensed salespersons;
- c. Excellence Realty Ltée/Ltd currently has no licensed Manager; and
- d. At the time of suspension, Excellence Realty Ltée/Ltd had a number of active real estate listings and pending transactions, and no information has been provided to the Director with respect to these listings and transactions despite the suspension of its licence;

[20] Based upon this continued non-compliance, I find that the continued licensure of Excellence Realty Ltée/Ltd pursuant to the *Real Estate Agents Act* is incompatible with the public interest.

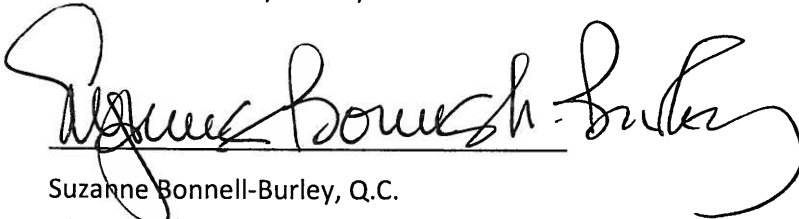
#### 4. Order

[21] The licence of Excellence Realty Ltée/Ltd, licence no. 114382, is hereby cancelled pursuant to subsection 10(3) of the *Real Estate Agents Act*.

[22] Pursuant to subsection 10(5) of the *Act*, Excellence Realty Ltée/Ltd is not entitled to apply for a new licence under the *Real Estate Agents Act* for a period of one year from the date of this decision.

[23] Pursuant to subsection 10(7) of the *Act*, Excellence Realty Ltée/Ltd is to return its cancelled licences without delay to the Director of Consumer Affairs.

Dated this 19<sup>th</sup> day of May 2016.



Suzanne Bonnell-Burley, Q.C.  
Director of Consumer Affairs

**Financial and Consumer Services Commission**

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