

### CH2

a person appointed by a partnership/corporation to represent it for all purposes under RESA: Managing broker

Managing Broker: 2 yrs licensed experience + licensing qualifications

Licensing qualifications: at least 19 years old, good reputation

Council: enforces, knowledge, licensing, investigations, 16 members

Foundation: Law reform, Minister of Finance +4, education/research, interest payable on trusts

E+OM Corp: assessments on licensees, insurance

### VOLUNTARY

BC real estate association - PR

11 real estate boards: MLS, MLS access

RE Institute: advanced education

### CH2

#### Occupiers Liability Act

Duty of Care: Children -> Invitee (economic interest) -> Licensee -> Trespasser (can still sue)

- owes reasonable standard of care

- more than 1 occupier, less duty to trespasser

- OLA made changes to common law

- does not extend to risks willingly assumed by visitors

- duty of care applies to: condition, activities, 3rd party conduct: on premises

### CH8

Balance Sheet: Assets/Liabilities/Equity

note: purchase of assets by the business does not affect the owners equity

Income: revenue - expenses = net

### CH8 (cont)

Straight line depreciation (cost - salvage life) / est. life

CCA is deductible

Book value original - depreciation

### CH12: Negotiations

#### Nature of effective negotiation

both parties satisfied at conclusion, efficiency of negotiation, creative division for full value, preservation of relationship, minimal wasted resources

#### Preparation principles

stay away from zero-sum, find creative solutions, don't go back and forth, make concessions when necessary

Interest focus. ie: find a house before school starts

Positions close the deal by date

Anchoring Effect a psychological phenomenon whereby negotiators make insufficient adjustments away from stated number

#### Dirty Tactics

recognize dirty tactic and explicitly raise the issue with the other party

question it and argue against it naming out loud

remain non emotional and focus on problem with the eye toward mutual resolution

do not personally attack the other party

### CH12: Negotiations (cont)

take a break until such behaviour stops

What NOT to do (dirty tactics)

respond in kind, put up with it, ignore, make insults regarding a persons nature

### CH12

#### Types of real estate agency contracts

##### Exclusive Listing

an exclusive right to sell for a specific period of time

if the owner sells himself, must still pay commission

If the owner uses 2nd agent to sell his property, two commissions could be payable

Multiple Listing (office/brokerage listing)

##### Exclusive right to sell

Listing must be distributed to all members of the real estate board and placed on MLS

Not valid unless: signed, in writing and true copy has been delivered to all owners, has provision that it will expire on the certain date

##### Open Listing

The owner may employ a number of agents to find the purchaser

A commission is paid to the agent who is the effective cause of the sale

### CH12 (cont)

Owner can sell as well and no commission would be payable (usually commercial listings)

Brokerage promises to use best efforts to locate a ready, willing and able purchaser

### CH15

Contractual Clauses apply when the borrower defaults

**Acceleration** maturity date of the loan is pushed forward and lender demands to be paid out in full

**Omnibus** in default of payment the lender will do the payment and it will be added to the loan

**Lender's Remedies** this gives lender complete discretion to choose most suitable remedy

**Mortgage in Possession** foreclosure

### CH18

**Federal** Airports, Oceans, Seaports, Railways, Fisheries, has NO interest in land between individuals

**Provincial** Agricultural Land Commission: can exclude, subdivide, pass regulations, allow non-farm use BUT can NOT add more land to it

**Local** Municipal Subdivision of the land, Building regulations, land use zoning, regional, local Improvement

### CH19

**Who Pays Property Taxes** fee simple owner, owner of a life estate, owner of an agreement for sale

Charities not exempt, NOT be liable for lease

**Exemptions from taxation:** crown properties, uni's, cemeteries, some farms, municipal properties, school, indian lands, hospitals

**Home Owner Grant** only the owner/occupier of the property is eligible

**General Rate** (small/big)x1000

**Real Property Tax** (tax rate x Property Value\$)/1000

**Tax Deferral** widow/widower, 55 years or older, permanently disabled

**Assessment Appeals** Property A. Rev. Pan -> PAAp. Board -> Supreme Court of BC -> Court of Appeal

**Mill Rate** rate of tax per \$1000 of net taxable value

### CH21-23

**Comparative Method** substitution, arms length, recent - stable conditions, similar - factors buyers/sellers

**rating grid** subject property be the basis and all comparables adjusted to it

**Cost Method** unusual/unique, last resort

### CH21-23 (cont)

**infrequency of use:** the assumption that cost equals value is not necessarily correct

note: land does not depreciate

**Market Value** cost of improvement - depreciation + land value

**Improvements based on:** current cost/modern equivalent

**Curable Physical** can be fixed

**Curable Functional** can be replaced cost effectively (ie bathroom fixtures)

**Incurable Physical** cannot be fixed economically (foundation)

**Incurable Functional** ie. narrow floor plan

### CH21-23

**Purchased after taxes** purchaser include sale date to dec31

**Taxes to be paid in the future** purchaser pays entire amount, returns up to before purchase date to vendor

### CH25

**promotional mix** personal selling, advertising, public relations, sales promotion

**Marketing mix** product, place, price, promotion

**SMART mix** Specific, Measureable, Agreed upon, Realistic, Timeline attached



### CH3: Crown Land

(based on common law, modified using LTR)

Fee Simple Stated: remainderman, Not Stated: revisioner

#### Strata

Leasehold includes city, federal, 1st nations land

Life Estate (pur autre vie) Rights:

Obligations:

Cooperative Ownership Joint Tenancy: TTIP unity, survivorship.

Tenants in Common: Unequal TTIP, \$, will, if not specified its this one

### CH3:

#### Interest in Land Less than Estates

Restrictive Covenants negative in nature, runs with the land, binding

Building Scheme Multiple Restrictive Cov., maintains uniformity in development, same vendor for all lots

Profits a Prendre Right to profit from land

Easement must be able to form a subject(makes boundaries), benefits the land, release by express agreement from Dom.Tenement

### CH11: Contracts

condition precedent

may only be waived by the party who is benefit from the condition

to remove- must deliver written notice to each party before deadline

### CH11: Contracts (cont)

Protecting the Seller

pre-qualification of buyer

asking buyer to use his best efforts to satisfy conditions

time clause "72 hour clause" (removal of conditions by specified time if better offer is received)

specific time on condition precedent (something that MUST occur)

Property Disclosure Statement a protection to lender

### CH12: Law of Agency

Agent has authority to represent and act on behalf of another person. Any person of sound mind can act as an agent. Not a party to the contract - does NOT need capacity

anyone in BC acting as an agent in relation to the provision of real estate services MUST BE LICENSED under the RESA

#### Agency Relationship

Express Contract written or oral, most common relationship, mutual agreement by both parties

Implied Agency an agency can be implied by conduct. Past con. is no con. applies

Ratification An agent's authority can be granted retroactively. When the agent informs the principal of his actions and the principal accepts, the principal will be bound by contract.

### CH12: Law of Agency (cont)

If the seller says no, the agent will be responsible

Agency by Estoppel seller gives all power to act on behalf (power of attorney). Where the principal acts in such a way as to lead a 3rd party to believe that the agent has authority to act on behalf of the principal. Limited right. Agent CANNOT sign for anyone

### CH12

#### Termination of Authority

The relationship is based on mutual consent, either party can terminate at will

Can be revoked orally/by conduct

Principal that is inconsistent with the communication of authority would terminate

#### Frustration

Death, insanity, bankruptcy

### CH12

#### Principal duties to an agent

1. To pay commission
2. Duty to indemnify the agent

Commission is due when the title has been exchanged for money



### CH12 (cont)

If a seller and buyer conspired to wait for the listing to expire and finish the deal after, the brokerage will be entitled of the commission

#### Agency Disclosure

Before assisting or representing agent must disclose the nature of the representation the licensee will be providing

whether the licensee will be acting on behalf of any other person

whether the licensee will be accepting compensation from any other person

If the agent does NOT disclose that he is an agent The 3rd party may sue either the agent or the principal to enforce the contract. Both the agent and principal will be liable if a dishonest act occurs

### CH15

#### Process of Foreclosure

Demand letter short time period to pay

Petition BC supreme court registry

1st Court Order NISI (redemption period)

### CH15 (cont)

Petitioner may apply for:

Judicial Sale: not enough equity. Owner can still be liable, most common in BC

Order Absolute of Foreclosure: enough equity in property. Owner is no longer liable. Lender becomes registered owner. No further action can be taken against the owner

Criminal Code offence for a person or corporation to enter into an agreement of receive interest at a criminal rate (60%)

Interest Act If the document does not mention interest, no interest can be charged. If document requires interest to be paid with no set amount -rate allowed by law is 5% (does not apply to companies)

Business Practices and Consumer Protection Act The court can re-open a mortgage transaction under the consumer protection act if it believes the interest rate is harsh or incosionable

### CH20

Dormer mini roof extension that provides extra space

WATTS = VOLTS x AMPS

Amperage measure of the rate of electrical flow

Voltage measure of electrical potential or pressure of current flow

Wattage measure of power consumption

### CH21

the "subject of appraisal" is.. the legal rights of ownership vested in a particular piece of real estate

Ceiling highest buyer will pay

Price/Subjective Value/to owner

Sale Price/Objective Value/in exchange/mark et Negotiated price between buyer and seller

Floor Price/Subjective Value

Floor Price/Subjective Value Lowest price the seller will accept

lending value a long term conservative estimate of the value of the interest in land pledged as security

### CH24 Statement of Adjustments

Price debit purchaser, credit vendor

RE Commission n/a purchaser, debit vendor

Deposit to Brokerage credit purchaser, n/a vendor

Deposit paid directly to vendor credit purchaser, n/a vendor

### CH24 Statement of Adjustments (cont)

1st Legal Mortgage	credit purchaser, n/a vendor
Equitable mortgage	credit purchaser, n/a vendor
Assumed mortgage/Agreement for Sale	credit purchaser, debit vendor
Legal Fees/Conveyance	debit purchaser, n/a vendor
Discharging existing mortgage	n/a purchaser, debit vendor
Security Deposit	credit purchaser, debit vendor
Property Transfer Tax	debit purchaser, n/a vendor
Purchasers share of taxes already paid by vendor	debit purchaser, credit vendor
Vendor's share of taxes not yet due	credit purchaser, debit vendor
Penalty due on overdue taxes	n/a purchaser, debit vendor

### CH3: Waste

Common law waste: Voluntary	exploitation of nat.resources
CL: Permissive	allowing to deteriorate
CL: Ameliorating	improvements
Statute Waste: Equitable	destruction

### CH5: Trespass

#### Types of Trespass

Entry: voluntary without permission

Remaining: remains after right ends

### CH5: Trespass (cont)

Placing: object to be wrongfully placed

Includes: knowledgeable and unknowledgeable trespasser

Occurs on someone else's property, damage not necessary (actionable "per se"), intentional/direct act/voluntary

Indirect actions are NOT trespass

"No soliciting:" trespass if occurs

Who can sue: person in actual possession of property

Remedies: self help, injunction, damages

### CH5: Nuisance

Must have proof of physical damage

Interference with use and enjoyment

Defense: unavoidable as authorized by statute

damage is trifling

### CH5: Negligence

duty of care, breach of standard of care, reasonable result - foreseeable damages (in the course of business)

not verifying listing agreement

not done title search

fails to disclose material facts

doesn't recommend to insert clauses in offer

Vicarious Liability

Fiduciary Duty

loyalty to client, full disclosure, duty of utmost good faith, advantageous price

Negligent Misrepresentation

### CH5: Negligence (cont)

careless (without thought)

contractual relationship not necessary

reasonably relied on

damage must result

#### Fraudulent Misrepresentation

knowledge of false statement

does not need to be expert

sued under Tort/Contract law

#### Refuse to give advice

Clear Qualification "do not rely on my opinion"

#### Defense

not reasonably foreseeable that the person would take the advice

Errors in drafting agreement: licensee must be able to correctly draft documents

### CH12: Law of Agency

Actual Authority when documents are signed, the seller agrees to these authorities

Express Authority	How long/much/commission
-------------------	--------------------------



### CH12: Law of Agency (cont)

Is created an limited by the terms of the contract. Promis to pay commission must be supported by consideration (Listing Agreement)

**Implied Authority/Agency** Every agent has implied authority to do anything necessary for carrying out teh express authority granted (ie. enter the property with buyer). The goal is to sell

Rolls Royce question: buy everything to get the car

**Usual or Customary Authority** The agent is governed by what is usual in the trade (collect deposit)

### CH12: Law of Agency (cont)

**Apparent Authority** Similar to agency by estoppel (parenting over someone's listing Where the 3rd party would reasonably consider, from the conduct of the principal and the agent, that the agent did in fact possess authority

### CH12

**MLS** a site that pulls together information on real estate related topics with a focus on real estate listings

MLS contract must be in writing

Managed by real estate boards

Distributed to all members of RE board

**DUAL Agency** listing agent represents also a buyer

or agents from the same brokerage

Dual agent owes full duties to each client, but keep information confidential in 3 areas: the price, motivation, personal information

Termination of Agency Contract

Death of one of the parties

Frustration

Letter of termination by the principal

Insanity of the agent or the principal

### CH18

**Planning Process** long/short term goals

testing courses of action

forecasting future requirement/trends

**Planning Process** official community plans, non conforming use and board of variance, zoning bylaw, rezoning, subdivision

**Legal Non-Conforming Use** Lost after 6 months of discontinued use (90 days in VAN), cannot make alteration, Damage beyond 75% of value cannot be rebuilt

**Zoning bylaw Restrictions** 1. Height 2. Density 3. Set Backs 4.Site Area 5.Home occupations 6.Signage 7.Number of buildings 8.Parking

**Zoning Bylaw has three parts** map, definition of key terms, schedule of regulations

**Rationale of Regulation** Public health and safety, Protect of Property Values, Convenience and appearance, conserve natural resources

### CH21

**Margin of Error** 10%



### CH21 (cont)

Factors house/lot/location, neighbourhood,  
Affecting local economy, regional economy,  
Value prov/nat economy, "special  
purchaser" (extension of bids),  
Highest and best use

LT shift in age composition,  
Trends government programs affecting RE,  
supply and cost of raw materials

ST consumer pessimism/optimism,  
Trends change in interest rates (mortgage,  
bonds, loans)

### CH21-23

#### Income Method

appraiser current lease condition at the time  
looks at: of the sale, registered mortgages,  
physical characteristics of the  
building

not the expected rent forecast!

based on economic factors, no  
depreciation is used

Yield= net operating income/sale price

CAPitaliz an average yield of all buildings  
ation being compared  
Yield

Sale NOI(subject)/Cap Yield  
Price =

Gross - Vacancy & Bad debt = G.  
Potential Realized Revenue  
Revenue

GRR - Expenses = Net Operating  
Income

### CH21-23 (cont)

Replace Provides for a periodic  
ment replacement of building  
Reserves components that wear out more  
rapidly than the building itself

replaces the equipment with  
relatively short lives such as  
stoves, refrigerators, washing  
machines, carpeting



By o1510  
[cheatography.com/o1510/](https://cheatography.com/o1510/)

Not published yet.  
Last updated 7th December, 2016.  
Page 7 of 7.

Sponsored by **ApolloPad.com**  
Everyone has a novel in them. Finish Yours!  
<https://apollopad.com>