

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

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

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

CH21-23

Income Method

appraiser looks at:
current lease condition at the time 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

CAPitalization Yield
an average yield of all buildings being compared

Sale Price = $\text{NOI}(\text{subject}) / \text{Cap Yield}$

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

GRR
- Expenses = Net Operating Income

CH21-23 (cont)

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

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



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