

BC FINANCIAL SERVICES AUTHORITY

**IN THE MATTER OF THE *REAL ESTATE DEVELOPMENT MARKETING ACT*
SBC 2004, c 41 as amended**

IN THE MATTER OF

FAIZAL KATHRADA

AND

JEFFREY SENGARA

AND

GLENTANA DEVELOPMENT CORP.

CONSENT ORDER

(Pursuant to section 28 of the *Real Estate Development Marketing Act*)

[This Order has been redacted before publication.]

RESPONDENTS Faizal Kathrada;
 Jeffrey Sengara; and
 Glentana Development Corp.

DATE OF CONSENT August 22, 2023
ORDER:

COUNSEL: Mandeep Kalan, Legal Counsel for the BC Financial Services Authority
 Dhanushka (Sheran) De Zoysa, Legal Counsel for the Respondents

PROCEEDINGS:

On August 22, 2023, the Superintendent of Real Estate (the "Superintendent"), or the Superintendent's authorized delegate, of the BC Financial Services Authority ("BCFSA") accepted the Consent Order Proposal (the "Proposal") submitted by Faizal Kathrada, Jeffrey Sengara and Glentana Development Corp.

WHEREAS the Proposal, a copy of which is attached hereto, has been executed by Faizal Kathrada, Jeffrey Sengara, and Glentana Development Corp.

NOW THEREFORE, having made the findings proposed in the attached Proposal, and found that Glentana Development Corp. failed to file information respecting assignments in the Condo and Strata Assignment Integrity Register (“CSAIR”) for [Development 1] for 8 quarterly periods between April 1, 2019, and March 31, 2021, contrary to section 20.4 of the *Real Estate Development Marketing Act* (“REDMA”), and Faizal Kathrada, Jeffrey Sengara, and Glentana Development Corp. failed to comply with the terms of the undertaking accepted by the Office of the Superintendent of Real Estate on November 13, 2019, from November 13, 2019, to July 6, 2021, contrary to section 36 of REDMA, pursuant to sections 28, 30 and 31 of the REDMA, the Superintendent orders that:

1. Faizal Kathrada, Jeffrey Sengara, and Glentana Development Corp. be jointly and severally liable to pay a penalty of \$44,000.
2. Faizal Kathrada, Jeffrey Sengara, and Glentana Development Corp. be jointly and severally liable to pay enforcement expenses of \$3,050.
3. All payments above be made within 30 days of execution of the Consent Order.

Dated this 22nd day of August, 2023 in Vancouver, British Columbia.

Superintendent of the BC Financial Services Authority

“JONATHAN VANDALL”

Jonathan Vandall
Delegate of the Superintendent of Real Estate
Province of British Columbia

Attch.

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**CONSENT ORDER PROPOSAL BY FAIZAL KATHRADA, JEFFREY
SENGARA AND GLENTANA DEVELOPMENT CORP**

BACKGROUND

1. The BC Financial Services Authority ("BCFSA") is responsible for enforcing developer filing requirements under the Real Estate Development Marketing Act ("REDMA") and the Real Estate Development Marketing Regulation (the "Regulation") in the Condo and Strata Assignment Integrity Register ("CSAIR").
2. CSAIR is an online database for assignments of purchase agreements entered into by developers for the sale or lease of residential strata lots in BC, including both pre-sale lots and completed lots.
3. The CSAIR reporting requirements came into effect on January 1, 2019. REDMA requires developers of residential strata lots in BC to collect and file information respecting assignments of purchase agreements that developers consent to on or after January 1, 2019, in the CSAIR in the form and manner prescribed in the Regulation.
4. Developers are required to create an account with the Land Title and Survey Authority of BC ("LTSA"), register their development in CSAIR, and file assignment information in accordance with the prescribed schedule and reporting periods listed in the Regulation.
5. CSAIR reporting requirements start when the first purchase agreement is entered into by the developer. The quarterly reporting periods are:

- a) January 1 – March 31 (Q1)
 - b) April 1 – June 30 (Q2)
 - c) July 1 – September 30 (Q3)
 - d) October 1 – December 31 (Q4)
6. Information must be filed in CSAIR within 30 days after the end of each quarter. If there are no assignments during a reporting period, a statement certifying that there were no assignments during the reporting period must still be filed within 30 days after the end of that reporting period.

FACTS

This Consent Order Proposal (the "Proposal") is made by Faizal Kathrada, Jeffrey Sengara and Glentana Development Corp. to the Superintendent of Real Estate (the "Superintendent") of the BC Financial Services Authority ("BCFSA") pursuant to section 28 of the REDMA.

For the purposes of the Proposal, Faizal Kathrada, Jeffrey Sengara, Glentana Development Corp. and the Superintendent have agreed upon the following facts:

1. Glentana Development Corp. (the "Developer") was incorporated in British Columbia on August 6, 2021, and has a registered and records office at 1626 Garnet Road, Victoria, BC, V8P 3C8. Faizal Kathrada and Jeffrey Sengara are directors (together, the "Directors") of Glentana Development Corp.
2. The Developer is the developer of a property named [Development 1] (the "[Development 1]").
3. On April 17, 2019, the Developer filed a disclosure statement with the Office of the Superintendent of Real Estate ("OSRE"), for [Development 1] (the "Disclosure Statement").
4. The Disclosure Statement states:
 - a. [Development 1] will be located at [Property 1], Victoria BC.
 - b. The development will be comprised of 50 residential strata units.
 - c. The assignment of purchase contracts is allowed with the consent of the Developer.
5. The first purchase agreement for [Development 1] was entered into on June 19, 2019. The Developer's obligation to report started when it entered into its first purchase agreement. Therefore, the first filing in CSAIR for [Development 1] should have been submitted within 30 days following the April 1 – June 30 quarterly reporting period.
6. On November 1, 2019, OSRE staff received the CSAIR Delinquency Report for 2019 Q3 from the Property Taxation Branch and noted that [Development 1] was not included in the report, meaning it had not filed in CSAIR any information respecting assignments of purchase agreements or a statement certifying that no assignments had been made for [Development 1].
7. On November 4, 2019, OSRE staff wrote to legal counsel for the Developer to advise of a possible breach of REDMA and the Regulation. The correspondence also requested that the Developer provide OSRE with a written undertaking confirming that it will register [Development 1] immediately and file an assignment activity report that includes any outstanding required assignment information.

8. On November 13, 2019, OSRE staff accepted a written undertaking pursuant to section 36 of REDMA from the Developer, in which the Developer undertook to immediately register [Development 1] in CSAIR, and to file an activity report as required and set out in the Regulation within 30 days from the end of the CSAIR reporting period in which the undertaking was made (the "Undertaking").
9. Each of the Directors also confirmed and signed the Undertaking, acknowledging that it was binding on them and that failing to comply with the terms of the Undertaking is non-compliance under REDMA.
10. On July 7, 2020, after reviewing the 2019 Q4 and 2020 Q1 delinquency reports, OSRE staff sent another reminder to the Developer's legal counsel that notwithstanding the requirements of REDMA and the Undertaking, an assignment activity report had still not been filed for [Development 1].
11. On March 26, 2021, OSRE staff notified the Developer's legal counsel that this matter was now being investigated under section 25 of REDMA. The correspondence noted that there was to date, no evidence that the Developer and the Directors had taken any steps to comply with the CSAIR filing requirements regarding [Development 1] or the Undertaking.
12. On April 20, 2021, the Directors responded to OSRE staff indicating that they were not aware the CSAIR filing requirements had not been met and that from this correspondence they were undertaking to file everything online; the next filing date being July 1, 2021.
13. On July 6, 2021, the Developer filed an assignment report for 2021 Q2 (April 1 to June 30) in CSAIR in the applicable reporting time period, bringing the Developer into compliance with REDMA and the Regulation.
14. The Developer failed to file information respecting assignments in [Development 1] in CSAIR in the form and manner required by the Regulation for eight quarterly reporting periods between April 1, 2019 to March 31, 2021.
15. The Developer and the Directors were in breach of the Undertaking from November 13, 2019 to July 6, 2021.
16. A Notice of Hearing was issued on May 2, 2023 and served on the Directors and Developer.

PROPOSED FINDINGS

For the sole purposes of the Proposal and based on the Facts outlined herein, the Directors and the Developer propose the following findings be made by the Superintendent:

1. The Developer failed to file information respecting assignments in the *Condo and Strata Assignment Integrity Register* ("CSAIR") for [Development 1] for 8 quarterly periods between April 1, 2019, and March 31, 2021, contrary to section 20.4 of REDMA.

2. The Developer and Directors failed to comply with the terms of the undertaking accepted by the Office of the Superintendent of Real Estate on November 13, 2019, from November 13, 2019, to July 6, 2021, contrary to section 36 of REDMA.

PROPOSED ORDERS

Based on the facts herein and the Proposed Findings, the Directors and the Developer propose that the Notice of Hearing in this matter be resolved through the following orders being made by the Superintendent pursuant to sections 28, 30, and 31 of REDMA (the "Order"):

4. The Developer and Directors shall be jointly and severally liable to pay a penalty of \$44,000;
5. The Developer and Directors shall be jointly and severally liable to pay enforcement expenses of \$3,050;
6. All payments above shall be made within 30 days of execution of the Consent Order.

ACKNOWLEDGEMENTS AND WAIVER OF APPEAL RIGHT

1. The Directors and Developer acknowledge and understand that the Superintendent may accept or reject the Proposal. If the Proposal is rejected by the Superintendent, the matter may be referred to a disciplinary hearing.
2. The Directors and Developer acknowledge that they have been urged and given the opportunity to seek and obtain independent legal advice with respect to the disciplinary process, the allegations contained in the Notice of Discipline Hearing, and the execution and submission of the Proposal to the Superintendent; and, that they have obtained independent legal advice or has chosen not to do so, and that they are making the Proposal with full knowledge of the contents and the consequences if the Proposal is accepted.
3. The Directors and Developer acknowledge and are aware that BCFSA will publish the Proposal and the Consent Order or summaries thereof on BCFSA's website, on CanLII, a website for legal research and in such other places and by such other means as BCFSA in its sole discretion deems appropriate.
4. The Directors and Developer hereby waive their right to appeal pursuant to section 37 of the REDMA.
5. If the Proposal is accepted and/or relied upon by the Superintendent, the Directors and Developer will not make any public statement(s) inconsistent with the Proposal and its contents. Nothing in this section is intended to restrict the Directors and Developer from making full answer and defence to any civil or criminal proceeding(s).

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6. The Proposal and its contents are made by the Directors and Developer for the sole purpose of resolving the Notice of Hearing in this matter and do not constitute an admission of civil liability. Pursuant to section 28(3) of REDMA, the Proposal and its contents may not be used without the consent of the Directors and Developer in any civil proceeding with respect to the matter.

Faizel Kathrada

Dated ____ day of _____, 20__

Director Name: _____,
Authorized Signatory for Glentana
Development Corp.

Dated ____ day of _____, 20__

“JEFFREY SENGARA”

Jeffrey Sengara

Dated ____ day of _____, 20__