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August 11, 2001

## Wild West tactics must be corralled

Imagine a Canadian metropolitan area where 40,000 homes and condominiums are sold every year, representing more than \$12 billion in consumer spending.

Now imagine that the vast majority of these homes and condominiums are sold by unlicensed salespeople. No legislation governs hundreds and hundreds, perhaps thousands, of sales staff. There is no requirement for education, sales experience, insurance or ethical standards. There is no need for bonding or criminal record checks.

No governing body regulates the conduct of the salespeople and there is no one who can toss the bad apples out of the profession. Nothing prevents the telling of outright falsehoods in sales offices.

The marketing of these 40,000 units is a true Wild West scenario, with no laws, no rules and not even a sheriff wearing a silver star to impose some order in the chaos.

Now imagine that the government of this metropolis mouths some platitudes about trying to protect the consumers who spend this \$12 billion annually, but it does nothing - absolutely nothing - to ride into town on a white horse and impose order on the chaos.

Impossible, you say? Outrageous? Fairy tale? After all, this is 2001. We live in a civilized society where such things cannot happen.

But the sad fact is that this situation is not only real, it exists today, right here in the Greater Toronto Area.

Under the Real Estate and Business Brokers Act (REBBA), when a person sells his or her own home without a real estate agent, that person is exempt from being licensed to trade in real estate. By extension, when a builder opens a sales office to sell 500 or 1,000 new homes or condominiums, there is no licensing requirement for the sales staff because they are selling the builder's "own" real estate.

Now along comes Norm Sterling, Ontario's Minister of Consumer and Business Services.

Like Marshal Wyatt Earp riding his stallion into Dodge City to bring law and order to the Wild West, Sterling says he wants to "ensure that our legislation provides Ontario consumers with the safeguards they need."

New homes and condominiums in Ontario should be sold by sales staff who are trained, insured, educated and regulated.

### **The fact is there are some bad apples in the barrel**

But this ersatz marshal says not one word about protecting consumers who buy \$12 billion in real estate annually through unlicensed sales staff.

Sterling wants to make it a crime to falsify paperwork in a real estate transaction. He wants to establish discipline rules for wayward agents, and to restrict auctioneers and lawyers from marketing real estate. (The draft legislation and an accompanying guide are online at <http://www.cbs.gov.on.ca>.)

But it's impossible to take Sterling seriously when he says he wants to protect consumers. Although the vast majority of sales staff at new home and condominium projects are competent, honest, capable and sincere, the fact is that there are some bad apples in the barrel and the industry remains totally unregulated.

Here are some examples of misrepresentations made at various sales sites, taken from my own files:

- Sales office: The condo is 983 square feet. The house is 1,600 square feet. Fact: Those are perimeter measurements. The unit is actually 10 or 15 per cent smaller in actual living area.
- Sales office: Silent on the issue of deposits over \$20,000. Fact: Deposits over \$20,000 are not insured unless the offer specifically says so.
- Sales office: Silent on the issue of construction timetable. Fact: The builder has until November, 2003, to decide whether the project will proceed. Otherwise the deposit is returned.
- Sales office: Silent on the issue of clear title. Fact: The builder's lawyer does not have to give clear title or discharge the construction mortgages unless the discharges are actually delivered to him or her by the construction lender.
- Sales office: Parking will be included with the condominium. Fact: Only if they have enough spaces left over.
- Sales office: Gorgeous waterfront view. Fact: The offer specifically states that there is no guarantee on the view.
- Sales office: Silent on the issue of hidden additions to the purchase price. Fact: The offer requires the purchaser to pay between \$2,000 and \$10,000 for extras like tree planting, hydro meters, carbon monoxide detectors, lot levies and the Ontario New Home Warranty Program fee, which were never mentioned in the sales office.
- Sales office: This is a drawing of what the house will look like. Fact: The builder can add eight steps to the front door, and change the look completely without your consent. There could also be a hydro transformer or super mailbox on your front lawn.
- Sales office: The upgrades on the schedule attached to the offer are included in the purchase price. Fact: The small print says the builder can omit the extras without compensating the buyer.
- Sales office: No plans have been made for the vacant lot next to your house. Fact: It may be a convenience store.
- Sales office: Move-in date for the condominium is late 2003. Fact: The small print allows the builder a two-year extension.
- Sales office: GST is included. Fact: The builder in this case is using a pre-GST offer form, which would require the purchaser to pay GST on top of the price.
- Sales office: The condominium will make a great investment property. Fact: The price goes up by the 2.5 per cent GST rebate if you don't move in, and the offer prohibits

tenants in the unit.

If Norm Sterling really wants to protect consumers, he will close the barn door on this huge loophole.

New homes and condominiums in Ontario should be sold by sales staff who are trained, insured, educated and regulated. They should be licensed under the Real Estate and Business Brokers Act and ideally be members of a trade association like the Toronto Real Estate Board.

Members of the Ontario public who spend \$12 billion a year on new residences look to the government to protect them. Sterling cannot let them down.

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