COMPETITION TRIBUNAL

IN THE MATTER OF the Competition Act, R.S.C. 1985, c. C-34, as amended;

IN THE MATTER OF an application by the Commissioner of Competition pursuant to section 79 of the *Competition Act*;

AND IN THE MATTER OF certain rules, policies and agreements relating to the residential multiple listing service of the Toronto Real Estate Board.

BETWEEN:

COMPETITION TRIBUNAL TRIBUNAL DE LA CONCURRENCE **RECEIVED / REÇU**

> CT-2011-003 May 15, 2015

Jos LaRose for / pour REGISTRAR / REGISTRAIRE

OTTAWA, ONT

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THE COMMISSIONER OF COMPETITION

Applicant

AND

THE TORONTO REAL ESTATE BOARD

Respondent

AND

THE CANADIAN REAL ESTATE ASSOCIATION and REALTYSELLERS REAL ESTATE INC.

Intervenors

<u>UPDATED</u> WITNESS STATEMENT OF TIMOLEON SYRIANOS - ULTIMATE REALTY INC. –

I, TIMOLEON SYRIANOS, of the City of Toronto, state as follows:

1. I have been engaged full time as a real estate broker in the Greater Toronto Area ("GTA") since 1989.

2. In 2007 I became the principal owner and President of Ultimate Realty Inc which is a brokerage in the GTA that is a RE/MAX franchisee engaged in the purchase and sale of

CT-2011-003

residential properties on behalf of consumers. Ultimate Realty Inc. has <u>three</u> two offices in the GTA, namely, 1739 Bayview Avenue, <u>and</u> 1272 Dundas Street West, <u>and 1281 St.</u> <u>Clair Ave. West</u>. I am the broker of record for Ultimate Realty Inc.

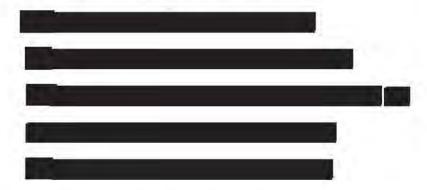
3. I have been a member of The Toronto Real Estate Board ("TREB") since I became a real estate professional in 1989. Over the last year I have been a member of TREB's Virtual Office Website Task Force. As of July 1, 2012 I was elected a director of TREB for the Central Area of the GTA. I was proud to be so elected and consider my mandate as a director to serve all members of TREB and to improve the professionalism of the real estate industry. I was reelected in July, 2014 and continue to serve as a director.

3.1 I was a member of TREB's initial VOW Task Force. My appointment with the initial VOW Task Force concluded when the mandate of that Task Force expired. I am not a member of the new VOW Task Force.

Ultimate Realty Inc.

4. Ultimate Realty Inc. (hereafter "Ultimate") has some <u>235</u>480 salespersons acting on its behalf. In addition, it employs three managers and office staff. All <u>235</u>480 salespersons are independent contractors. The managers as well as myself are tasked with providing the salespersons with continuous educational programs as well as educational materials and a weekly publication. <u>TheOne managers-is are</u> in charge of areas relating to privacy and the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) and the others concentrate on matters arising under the *Ontario Real Estate and Business Brokers Act*, *2002* and its Regulations, including the Code of Ethics, and matters related to TREB. Ultimate considers the education of its salespersons to be a value proposition that puts them in a position to advise an individual that consults them about a possible real estate transaction about matters such as market conditions, factors that influence value, the manner in which a salesperson can facilitate the entire transaction and the marketing of the property.

5. The salespersons acting on behalf of Ultimate are remunerated in relation to the commissions paid to Ultimate on transactions completed by them. The salesperson may choose one of the following methods of compensation:



6. It is my experience that while people interested in purchasing or selling a residential property may initially turn to the internet for general information, they most often complete their search in the office of a real estate brokerage. At that stage, Ultimate's salesperson confirms the nature of a brokerage and how it operates to them and then notes the wants and needs of the individual all with the view to having the individual execute a listing agreement, a customer service agreement or buyer representation agreement. It is common for individuals to be concerned about privacy and as a consequence Ultimate's salespersons have been trained to explain the provisions of a listing agreement and a buyer representation agreement as they pertain to privacy and to explain to a potential purchaser how privacy relates to a purchase.

7. The sale or purchase of residential real estate is the type of transaction/investment that requires a human touch. Searching the internet for information is one thing, implementing what in 2012 2015 can be a complex transaction is another.

- 8. Salespersons with Ultimate often prepare a comparative market analysis ("CMA") for a client that provides a range of values. However, that client is never provided with full TREB Multiple Listing Service print outs.
- In my experience there is no "normal" listing commission. Today it ranges from
 0.5% to 5.5%. The compensation offered a cooperating broker ranges from 1.5% to 3.0%.
- 10. Competition among brokerages and brokers in the GTA is fierce, and in my view it has only increased since the initial hearing. Ultimate not only competes with other RE/MAX franchisees but with brokerages carrying on business under other banners and many non-branded brokerages.

Commissions

40-11. At the initial hearing, at the request of the Tribunal, I provided reports detailing the commissions charged by Ultimate agents during the months of January 2011, June 2011, and June 2012. These reports were marked as exhibits at the hearing, and for ease of reference are attached to my witness statement as Exhibit "A", Exhibit "B" and Exhibit "C", respectively.

12. Attached to my witness statement are updated commission reports for January 2014 (Exhibit "D"), June 2014 (Exhibit "E"), and January 2015 (Exhibit "F"). The chart below compares the average commission charged by Ultimate agents in 2011-2012 (calculated as a percentage of the purchase price) to the percentage of commission charged by Ultimate agents in 2014-2015.

	<u>Jan 1-31,</u> <u>2011</u>	<u>Jun 1-30,</u> <u>2011</u>	<u>June 1-30,</u> <u>2012</u>	<u>Jan 1-31,</u> <u>2014</u>	<u>June 1-30,</u> <u>2014</u>	<u>Jan 1-31,</u> <u>2015</u>
<u>Listing Side</u> (Seller)						-
Selling Side (Buyer)						

Commissions charged by Ultimate Agents (% of purchase price)

Sharing and Advertising Sold Information

11-13. I testified at the initial hearing that our brokerage requests the consent of buyers and sellers to a transaction to advertise or otherwise market information about a sold property. This consent is requested using a form titled "Consent to Advertise Sold Properties". This document was entered as an exhibit at the initial hearing and is attached to my witness statement as Exhibit "G". Ultimate still uses this form, which is presented to the buyer and the seller by the agent at the time the Agreement of Purchase and Sale is executed. If the buyer and seller both provide their consent, the broker is permitted limited use of the sold information. Specifically, the broker is permitted to advertise photos of the sold property, the address of the sold property, and the price or percentage of list price to sale price of the sold property.

- 12.14. In my experience, even with the limited scope of permissible uses of the information, only about 50% of clients will allow their information to be shared in this way.
- 13.15. Additionally, Ultimate has modified its Schedule "B" to the standard form Agreement of Purchase and Sale, which previously contained a clause permitting the brokerage to advertise the sale of the property. This clause, among others, has been removed from the updated version of Schedule "B". The revised Schedule "B" is attached to my witness statement as Exhibit "H". As a result, Ultimate now relies exclusively on the separate consent form to advertise sold properties.

14. Web Based Services

16. Ultimate continues to operate its website, www.torontohomesforsale.com, and its website has undergone a redesign since the initial hearing. Ultimate's website offers a number of helpful features for prospective clients, including the ability to search listings online, detailed neighbourhood information, and access to reports and statistics on the value of home prices and number of days on a market. Ultimate obtains the listing information that it uses on its website from TREB's IDX data feed and CREA's Data Distribution Facility data feed. Samples of excerpts from Ultimate's website are attached to my witness statement as Exhibit "J".

- 17. I testified at the initial hearing that Ultimate uses a VOW feed to offer mobile app services. Ultimate continues to use the VOW feed for its mobile app, but has not adopted the VOW for use on its website, as we prefer to work with the IDX and DDF feeds.
- 18. Since the initial hearing, Ultimate has continued to innovate and improve the quality and features that offers to its agents, and to its clients. For example, Ultimate now offers an online version of almost all of the standard OREA forms (e.g. the Listing Agreement, Buyer Representation Agreement, etc.), and saves those documents using cloud based software. This service allows the client to complete the forms from anywhere in the world, and to access electronic versions of these documents from anywhere. Ultimate also offers a live chat feature on its website. Upon visiting the website, an agent will connect directly with a website user to assist him or her in obtaining information and navigating his or her search for properties in the GTA.
- 19. Ultimate agents also take advantage of the new Collaborate service that is being provided by TREB.

SIGNED this ^{13th} day of May, 2015

Timoleon Syrianos

Ultimate Realty Inc.

	CT-2011-003
-	COMPETITION TRIBUNAL
	THE COMMISSIONER OF COMPETITION
	Applicant
	- and -
	THE TORONTO REAL ESTATE BOARD
	Respondent
	- and -
	THE CANADIAN REAL ESTATE ASSOCIATION and REALTYSELLERS REAL ESTATE INC.
	Intervenors
	UPDATED WITNESS STATEMENT OF
	TIMOLEON SYRIANOS,
	ULTIMATE REALTY INC.
	AFFLECK GREENE McMURTRY LLP
	365 Bay Street, Suite 200
	Toronto, Ontario M5H 2V1
	Donald S. Affleck, Q.C. LSUC#: 10420B
	David N. Vaillancourt LSUC#: 569691
	Fiona Campbell LSUC#: 60383V
	Tel: (416) 360-2800
	Fax: (416) 360-5960

Counsel for The Toronto Real Estate Board

EXHIBIT



RE/MAX UIt ate Realty Inc. Manager's Trace Report - All Offices

Manager's Trace Report - All Offices From January 01, 2011 To January 31, 2011 Statuses: Closed, Open Firm, Open Conditional

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Page: 1 of 3

RE/MAX UIt. ate Realty Inc. Manager's Trade Report - All Offices

From January 01, 2011 To January 31, 2011 Statuses: Closed, Open Firm, Open Conditional

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From January 01, 2011 To January 31, 2011 Statuses: Closed, Open Firm, Open Conditional

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EXHIBIT B

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RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From June 01, 2011 To June 30, 2011 Statuses: Closed, Open Firm, Open Conditional

RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From June 01, 2011 To June 30, 2011

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RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From June 01, 2011 To June 30, 2011 Statuses: Closed, Open Firm, Open Conditional

RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From June 01, 2011 To June 30, 2011

Statuses: Closed, Open Firm, Open Conditional

RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From June 01, 2011 To June 30, 2011

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Statuses: Closed, Open Firm, Open Conditional

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EXHIBIT C

RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From June 01, 2012 To June 30, 2012 Statuses: Closed, Open Firm, Open Conditional

Manager's Trade Report - All Offices From June 01, 2012 To June 30, 2012 Statuses: Closed, Open Firm, Open Conditional

Manager's Trade Report - All Offices From June 01, 2012 To June 30, 2012 Statuses: Closed, Open Firm, Open Conditional

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Manager's Trade Report - All Offices From June 01, 2012 To June 30, 2012 Statuses: Closed, Open Firm, Open Conditional

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Manager's Trade Report - All Offices From June 01, 2012 To June 30, 2012 Statuses: Closed, Open Firm, Open Conditional

RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From June 01, 2012 To June 30, 2012 Statuses: Closed, Open Firm, Open Conditional

Manager's Trade Report - All Offices From June 01, 2012 To June 30, 2012 Statuses: Closed, Open Firm, Open Conditional

EXHIBIT D



RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From January 01, 2014 To January 31, 2014 Statuses: Closed, Open Firm, Open Conditional

RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From January 01, 2014 To January 31, 2014 Statuses: Closed, Open Firm, Open Conditional

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RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From January 01, 2014 To January 31, 2014 Statuses: Closed, Open Firm, Open Conditional

Manager's Trade Report - All Offices From January 01, 2014 To January 31, 2014 Statuses: Closed, Open Firm, Open Conditional

EXHIBIT E

Manager's Trade Report - All Offices From June 01, 2014 To June 30, 2014 Statuses: Closed, Open Firm, Open Conditional

RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From June 01, 2014 To June 30, 2014 Statuses: Closed, Open Firm, Open Conditional

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RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From June 01, 2014 To June 30, 2014 Statuses: Closed, Open Firm, Open Conditional

RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices

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RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices

Manager's Trade Report - All Offices From June 01, 2014 To June 30, 2014 Statuses: Closed, Open Firm. Open Conditional

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RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices

Manager's Trade Report - All Offices From January 01, 2015 To January 31, 2015 Statuses: Closed, Open Firm, Open Conditional

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RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices From January 01, 2015 To January 31, 2015 Statuses: Closed, Open Firm. Open Conditional

RE/MAX Ultimate Realty Inc. Manager's Trade Report - All Offices

Manager's Trade Report - All Offices From January 01, 2015 To January 31, 2015 Statuses: Closed, Open Firm, Open Conditional

EXHIBIT G



"Ultimate Agents, Ultimate Results"

Consent to Advertise SOLD Properties

(To be completed at an acceptance of Agreement of Purchase and Sale)

The Privacy Act and Real Estate Council of Ontario's Code of Ethics require Realtors to obtain written consent from Buyers and Sellers to advertise or otherwise market any information about a property an Agreement of Purchase and Sale has become firm.

The Listing Broker

The Co-operating Broker_

Hereby request your permission to advertise or otherwise market the Sale of Property known as:

Both Brokers will limit their Advertising/Marketing to include only:

- A photograph of the property
- The address
- The price or percentage of list to sale price

Such promotions shall not include mention if the names of the Seller or Buyer, save and accept for the listing information published.

 Buyers Consent:
 Sellers Consent:

 (print name)
 (print name)

 Buyer Signature
 Date

 Date
 Seller Signature

 Buyer Signature
 Date

10267/1

and

EXHIBIT H





This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

JYER,
LLER,
the property known as
dated the dated in

The parties to this Agreement of Purchase and Sale/Agreement to Lease hereby acknowledge that the Deposit shall be a Certified Cheque or Bank Draft.

The parties to this Agreement of Purchase and Sale hereby acknowledge and agree that RE/MAX Ultimate Realty Inc. shall place the deposit in its interest-bearing Real Estate Trust Account, which earns interest at a current rate of Prime less 2.50% per annum based on the monthly average balance. RE/MAX Ultimate Realty Inc. shall pay any interest it earns or receives on the deposit to the beneficial owner of the trust money, calculated on the net average daily credit balance at a rate of 0.25% provided the amount of the interest that RE/MAX Ultimate Realty Inc. earns or receives on the deposit is greater than \$100.00 (administration fee). The parties to this agreement of Purchase and Sale hereby acknowledge and agree that RE/MAX Ultimate Realty Inc. shall be entitled to retain any interest earned or retained on the deposit which is less than the administration fee detailed above. The Buyer agrees to supply a valid Social Insurance Number as required by the Income Tax Act for any interest payments to be received.

For all purposes of this notice, the terms "banking days" and/or "business days" shall mean any day, other than Saturday, Sunday or Statutory holiday in the Province of Ontario.

This form must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

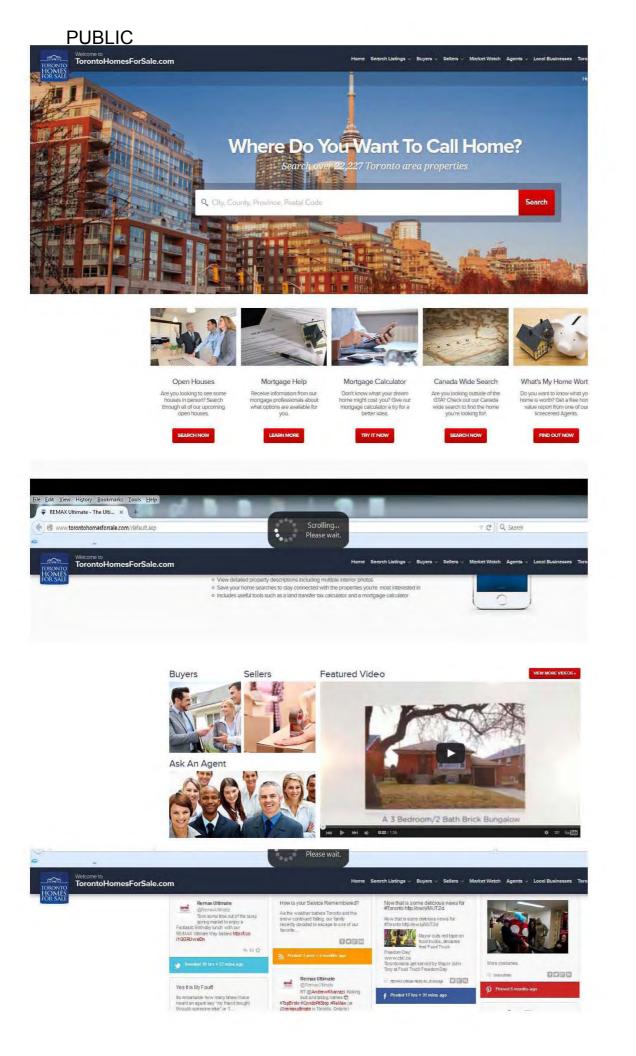
INITIALS OF SELLER(S):

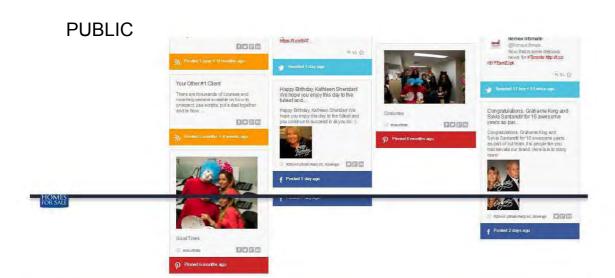
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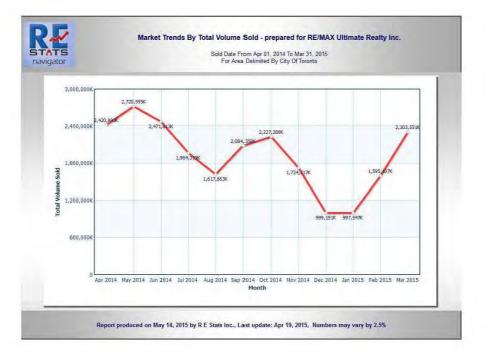
Form 105 Revised 2008 Page 1 of 1 W/FRForms® Nov/2013

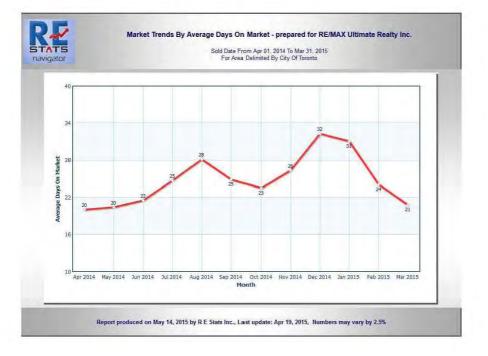
EXHIBIT I

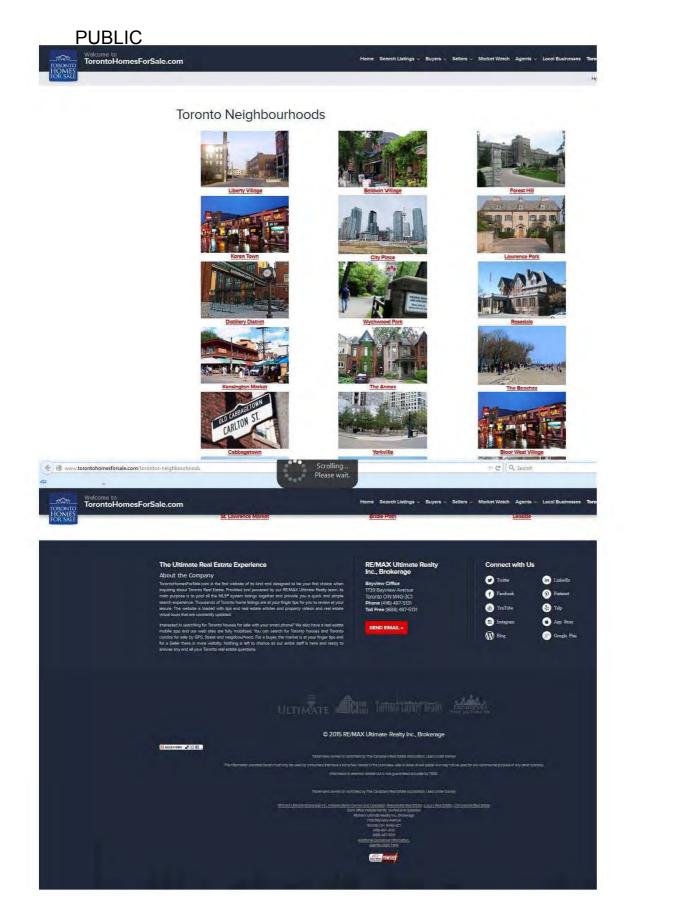




RE/MAX Ultimate Realty Inc., Brokerage The Ultimate Real Estate Experience Connect with Us About the Company 🕑 Tutter in Linkedin ed and powered by our REMAX Utimete Reelty team on listings together and provide you a guick and sin P Paterest F Facebook to pool all the MLS[®] sy 😣 Yelp e is loocled · YouTube with tios and 🖪 Insta App Store SEND EMAIL ed. You can baci Fore b W Blog (R) Google Plus © 2015 RE/MAX Ultimate Realty Inc., Brokerage E BOOKHWERK REMAX Ultimate Brokerage Inc. Independently Owned and Operated Residential Real Estate | Luxuar Real Estate | Commercial Real Estate







	Liberty Village			
	Liberty Village is a neighbourhood in Toronto, Ontario, Canada. It is bounded at the n Dotferin Street the south by the Gardiner Expressivary, the east by Strachan Avenue, and The Liberty Village name was introduced as a positive brand by the property owners an with the City of Toronto. The neighbourhood amis to distinguish itself from Parkdale, which focation is considered one of its finere assets being a 5 minute walk to the Lakeshore, 20 10 minute walk from the entertainment/fashion/gallery districts of King St. West, West Ou and Wellington St. West.	I the northeast by the CP valivay tracks icd developers in the area in conjunction in now begins west of Dufferin Street. Its in minute walk to the financial core and a		
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	Liberty Village is also known for its successful Art and Design studios. Many Canadian Liberty Village, creating many jobs for the increasing number of orizons that have mo Liberty Village's name comes from its central street. Liberty st. named in honour of a then Provincia Secretary Villam John Hanna who forced the closure of Toronto's Centro west of Strachan Avenue in 1915.	n and US design firms have located to oved into the growing neighbourhood. Instoric prison reform, the initiative of		
	If You Would Like More Information About Liberty	/ Village, Toronto Please Fill Ou	t The Form	
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	been easier. Our Ultimate Goal is to keep you updated on movement with average sales prices, sold-to-ask ratios, days-on-market, and more. Become	property values and the tiens e an expert and don't rely on price for your market and can	out buying or selling a home. Following Toronto real estate trends has never ds of Toronts property sales over the bast twelve months. Now you can track your Franced Flanser arymore for adviced <u>Consultwish a Real Estate Agent</u> help you to sell your home faster so you get a better return. <u>Contact Us</u> and
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	Market Trends prepared for RE/MAX Ultimate Realty Inc. by R E Stats Inc.		1111 100-5 BP
	Number of Homes Sold		Average Sold per Asked Ratio
	Value of Homes Sold	-	Units Sold by Days on Market
	Average Price of a Sold Home		Sold to Asked Ratio by Days on Market
	Average Days On Market to Sell a Home	Definition	2014 Housing Market Outlook
	You need Acrobat Reader to view trends and certificates		
	Click on the image to get Acrobat Reader		
	Sold Listings		
	It is good to understand how many houses have sold in our geographical housing market is slower has some advantages:	area compared to past year	s in order to determine what the popularity in the area is. Buying when the
	 Sellers will set lower prices Sellers are more likely to accept offer that are less than their original as Less competition with other buyers 	sking price	
	 Less competition with durier buyers These things will normally result in a great deal of savings for the buyer. 		
	Days On The Market		
	you to decide if the property you are looking at has been fairly priced so you	I can set your offering plice. Y	elp you to determine how hot the local real estate Market is, and will also help ou can rely on your REMAX Ultimate Agent to keep you updated. Contact Us
AX Ultimate - The Ulti X +	and we will help you navigate the local market to get your dream home for the second sec	ne dest possible price.	
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	many planet provide reactions introduction of participations of according and the planet of the planet of the many purpose is to pool of the MLS® system listings together and provide you is such and simple	Had Deyview Average Toronto O/N M4G-3C1	Buyers Selters Market Wintch Ägents Local Businesses Toro Sentock D Facture
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